ST 18-0043-GIL 12/06/2018 FARM MACHINERY AND EQUIPMENT

An aircraft used primarily in production agriculture may qualify for the farm machinery and equipment exemption. See 86 Ill. Adm. Code 130.305. (This is a GIL.)

December 6, 2018

Dear Xxxx

This letter is in response to your letter dated November 7, 2018, in which you requested information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

> We recently purchased six previously-owned aircraft that will be used exclusively by our company for the purpose of precision agriculture aerial imagery. Documentation was sent to the State of Illinois Department of Transportation, Division of Aeronautics, including the ST-587, RUT-75, AER 2048, US Department of Transportation of Bill of Sale and the US DOT Aircraft Registration Application. On the RUT-75 form, I selected an exemption from tax under item "e" used primarily in production agriculture. Per the advice of Xxxx of the Illinois Department of Revenue, Audit Division, I am sending additional information to the Legal Services Office supporting this request.
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> These airplanes (identified as ###, ###, ###, ###, ### and ###) will be fully engaged in production agriculture through our company. The aircraft have been modified per FAA STC to house proprietary multispectral camera systems which are used to acquire high resolution imagery of production agriculture fields weekly during the entire growing season (10 to 14 flights total) from April to October. The data acquired in each flight is immediately uploaded to the cloud, and is processed through a sophisticated software analytics process. Analysis is delivered to farmers the day after the flight via a web portal. The deliverable are not simple photographs – they are data-rich images which provide quantitative information regarding crop health and growth stages, and from which prescription zones are created. The zones are integral to the farmer's use of their precision ag equipment, enabling them to determine what chemicals are needed, where they are needed, and what amounts are appropriate. These zones allow farmers to develop application maps that are GPS-based using this data as an input to their precision, variable-rate machinery. Without the data provided through this aerial imagery service, they are unable to use the precision/variable-rate features on equipment such as planters and applicators.
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> The usage of these airplanes and sensor systems is very different than that of earlier generations of agriculture aerial photography, in which a farmer could simply obtain a bird's-eye perspective of their fields. The state-of-the-art multispectral systems provide a data rich assessment of the crops, including strategic information to tailor planting strategies; management of inputs such as fertilizer, herbicides, and pesticides, and harvest timing and strategy. I have included with this letter a brochure from COMPANY so that you might learn more about the services provided to farmers from the imagery we obtain for COMPANY. In

addition, I have provided (below) a number of examples of the types of data provided to farmers.

DEPARTMENT'S RESPONSE:

In general, the Illinois Retailers' Occupation Tax is imposed upon the total gross receipts received by retailers who make sales of tangible personal property to Illinois end users. Unless the sales are specifically exempted, such retailers incur Retailers' Occupation Tax on those sales. See 86 Ill. Adm. Code 130.101.

In certain cases, the sale of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. Under 86 Ill. Adm. Code 130.305 "Farm Machinery and Equipment," Illinois sales tax does not apply to the sale of machinery and equipment, both new and used and including that manufactured on special order, used or leased for use primarily in production agriculture or for use in State or Federal agricultural programs. The sale of individual replacement parts for such machinery and equipment is also exempt. In order to obtain the exemption, the purchaser must certify to the use primarily in production agriculture of the equipment or machinery. See Section 130.305(a).

Production agriculture is defined under the Retailers' Occupation Tax Act as "the raising of or propagation of livestock; crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. Production Agriculture also means animal husbandry, floriculture, aquaculture, horticulture, and viticulture." See 35 ILCS 120/2-35. Further, production agriculture, with respect to crops, includes mapping fields, applying farm chemicals, as well as activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide, or fertilizer, as well as, harvesting and drying of crops. Activities such as the clearing of land, mowing of fence rows or ditches, creation of ponds or drainage facilities, scouting crops and tile mapping are not included, nor are the operations involved in the storing or transporting of crops and produce, Section 130.305(f).

An aircraft used in production agriculture may qualify for the farm machinery and equipment exemption if the aircraft is used primarily in a qualifying manner, as described above. However, if it were used, for example, primarily for crop scouting and field maintenance activities, it would not qualify. Please see Compliance Alert 2007-03 regarding the use of other equipment to perform these activities.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess
Associate Counsel

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