ST 19-0028-GIL 12/05/2019 FARM MACHINERY & EQUIPMENT

The sale of certain types of tangible personal property used in production agriculture is not subject to Illinois Retailers' Occupation Tax and Use Tax. See 35 ILCS 120/2-5(2) and 86 Ill. Adm. Code 130.305. (This is a GIL.)

December 5, 2019

Dear XXX:

This letter is in response to your letter dated September 12, 2019, 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:

> I recently spoke with an individual at the Illinois Department of Revenue on this topic, and he recommended that I write a letter requesting more information.
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> We are a family farm focused in production agricultural. I recently received form ST-587 from a local business to complete and fill out. My question is this; can the parts we purchase for vehicles (semis, tractors and trailers) that are used for production agriculture on our farm be classified under this exemption certificate? We are wanting to know for future purchases on whether or not we should be charged with sales tax.
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> Please let us know either way.

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 III. 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 of the equipment or machinery primarily in production agriculture. See Section 130.305(a).

Machinery means major mechanical machines or machine components thereof contributing to the production agriculture process or used primarily in State or Federal agricultural programs. Machinery would include such things as tractors, combines, balers, irrigation equipment and cattle and poultry feeders.

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. See, Section 130.305(f).

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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