

This letter discusses tax exempt sales to contractors that has entered into a construction contracts with a governmental body. See 86 Ill. Adm. Code 130.2075(d). (This is a GIL.)

July 8, 2021

Dear NAME:

This letter is in response to your letter dated June 4, 2021, 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:

COMPANY1 has sold tangible personal property (i.e. PRODUCT equipment) to a contractor, COMPANY2, under Purchase Order ###-####, which is enclosed with this letter. The equipment was subsequently transferred to the AGENCY under a Prime Contract.

In lieu of a CRT-61, COMPANY2 provided a letter of explanation (a copy of which is enclosed) including their FEIN and the fact that the equipment was resold to the AGENCY, who holds Sales Tax Exemption Certificate# #####.

Because no CRT-61 was provided at the time of shipment, COMPANY1 has in fact applied sales tax to the order. However, COMPANY2 would like COMPANY1 to remove the sales tax pursuant to their "alternate CRT-61" provided.

I would like to verify that COMPANY1 has fulfilled its due diligence to report this as a tax exempt sale and therefore will be allowed to remove the sales tax from this order.

Please contact me directly if any additional information is needed: ####, or [E-MAIL](#)

DEPARTMENT'S RESPONSE:

Sales of materials to construction contractors for incorporation into real estate owned by governmental bodies are exempt from Retailers' Occupation Tax and Use Tax. The intent of the Legislature was to relieve governmental bodies from the burden of tax on their purchases whether the purchases are made directly or indirectly by them. Therefore, the exemption applies to their indirect purchase of building materials. 86 Ill Adm. Code 130.2075(d).

Except as otherwise provided in 86 Ill. Adm. Code 130.2076, sales of tools, fuel, lumber for forms and other end use or consumption items to construction contractors who do not incorporate these items into real estate are taxable sales regardless who the contractor's customer may be.

A supplier claiming exemption shall have among his records a certification from the purchasing contractor stating that his or her purchases are for conversion into real estate under a contract with a governmental body that is involved by name and address and stating the contract date. The supplier shall also have among his records the active exemption number issued by the Department to the governmental body for which the purchasing contractor is acting.

The tangible personal property must be incorporated into real estate owned by the governmental body to be exempt from Retailers' Occupation Tax and Use Tax. It is unclear from your letter that all the tangible personal property purchased was incorporated into real estate owned by the governmental body. Therefore, the Department cannot determine whether all the purchases are tax exempt. I would also note that the letter of explanation provided by the contractor does not state that all of the tangible personal property is being purchased for conversion into real estate under a contract with a governmental body as required by Section 130.2075(d)(4).

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,

Richard S. Wolters
Associate Counsel

RSW:rkn