

Date: November 17, 1983

Case: 83-0975

Dear Gentlemen,

This is to acknowledge receipt of your letter of October 24, 1983.

In your letter, you request a ruling with respect to a dual purpose system of field drainage and crop irrigation which you believe qualifies for the farm machinery and equipment exemption.

We have examined the materials that you have submitted and your arguments in addition to those submitted by another taxpayer. The Department's Regulations and position with respect to drainage equipment is that such equipment does not qualify for the farm machinery and equipment exemption. Therefore, the drainage tubing system which you have described and tiling systems in general do not qualify for the exemption. Irrigation systems, per se, can qualify for the farm machinery and equipment exemption. However, in order to qualify for the exemption, machinery must be used primarily for irrigation purposes. Since the tubing, even with irrigation capabilities, is used primarily for drainage, it does not qualify for the exemption even though it has a related irrigation capability. However, machinery and equipment which is related primarily to the irrigation function (i.e., pumps which deliver water from a pond or well to the tubing) would qualify for the exemption if they meet the other requirements of the statute.

With respect to the appellate process for letter rulings issued by the Department, please be advised that a taxpayer who is issued a Notice of Tax Liability with respect to failure to pay taxes on these materials could request an Administrative Hearing before a hearing Officer of the Department. The results of that Hearing Officer's recommendation could be taken to Circuit Court under the Administrative Review Act.

Very truly yours,

J. THOMAS JOHNSON  
Director of Revenue

By:

Stanley T. Cichowski  
Staff Attorney  
Legal Services Bureau  
Springfield Office  
Phone: (217) 782-7054

Date: December 30, 1983

Case: **83-1063**

Dear Gentlemen,

This is to acknowledge receipt of your letter of November 30, 1983.

Please be advised that neither tiling machines nor drainage tile qualify for the farm machinery and equipment exemption. At your request, I am enclosing a copy of the pertinent Regulations.

Very truly yours,

J. THOMAS JOHNSON  
Director of Revenue

By:

Stanley T. Cichowski  
Staff Attorney  
Legal Services Bureau  
Springfield Office  
Phone: (217) 782-7054

Date: April 7, 1986

Case: **86-0294**

Dear Gentlemen,

In your inquiry of March 27, 1986, you ask whether clay drain tile and plastic drainage tubing installed in farmland is exempt from Illinois Retailer's Occupation Tax. The answer is that it is not exempt, it is not farm machinery or equipment.

We enclose 86 Illinois Administration Code, Section 130.305.

Very truly yours,

William P. Ryan  
Staff Attorney  
Legal Services Bureau  
Springfield Office  
Phone: (217) 782-7054

WPR:MF:cma 3966D/2

Date: May 23, 1986

Case: 86-0477

Dear Gentlemen,

This is to acknowledge receipt of your letter dated May 19, 1986.

In your letter, you ask whether drainage tile qualifies for the farm machinery and equipment exemption.

Drainage tile used in connection with a drainage facility or drainage system would not qualify for the exemption. The exemption covers machinery and equipment used primarily in production agriculture. As indicated at 86 I11. Adm. Code Section 130.305(f), enclosed, activities such as the clearing of land, mowing of fencerows, creation of ponds or drainage facilities, etc., do not constitute "production agriculture" for purposes of the farm machinery and equipment exemption.

Very truly yours,

Randall P. Bower  
Staff Attorney  
Legal Services Bureau  
Springfield Office  
Phone: (217) 782-7054

RPB:msk

Enc.

Date: July 29, 1986

Case: 86-0623

Dear Gentlemen,

Your letter of July 21, 1986 has reached me for reply.

You inquire as to the tax exemption status of "farm drainage tile" under the exemption afforded Farm Machinery and Equipment.

"Farm drainage tile" is not machinery nor is it equipment under the definitions contained in the 86 Ill. Adm. Code, Section 130.305, enclosed.

"Farm drainage tile" is not exempt under the exemption afforded Machinery and Equipment.

Very truly yours,

William P. Ryan  
Staff Attorney  
Legal Services Bureau  
Springfield Office  
Phone: (217) 782-7054

WPR:MF:cma 5729D/5

Enclosure

Date: October 2, 1986

Case: 86-0842

Dear Gentlemen,

This is to acknowledge receipt of your letter dated September 19, 1986.

In your letter you indicate that you are going to have some drain tile installed on your farm property. You ask whether the drain tile is exempt from sales tax.

In Illinois, there is an exemption available for farm machinery and equipment used primarily in production agriculture. See 84 Ill. Adm. Code, Section 130.305, enclosed. As indicated at (f) of the foregoing regulation; production agriculture does not include the creation of drainage facilities. Consequently, the drain tile purchased by the contractor is subject to sales tax.

Very truly yours,

Randall P. Bower  
Staff Attorney  
Legal Services Bureau  
Springfield Office  
Phone: (217) 782-7054

RPB:MF:cma 6730D/2

Enclosure: 130.305

Date: May 13, 1981  
Case: 81-0621

Dear Gentlemen,

This is to acknowledge receipt of your letter dated April 23, 1981. In that letter, you have made inquiry concerning the application of the Illinois sales tax laws to a drainage contractor who manufactures and installs farm drainage tile. You have set out the following facts.

1. Contractor will buy raw materials and manufacture concrete drainage tiling (basically to be used in farm land)
2. Contractor will install the same drainage tiling himself after it has been manufactured.
3. Occasionally, the contractor will sell the manufactured tiling to other contractors and they will perform the installation work.

The drainage tile, when installed, becomes real property. Consequently, retailers' occupation tax Rules 6 and 15 have application. The principals set out therein, as applied to the situations which you have described, are as follows:

**AS TO DRAINAGE TILE WHICH YOUR CLIENT WILL PERMANENTLY  
AFFIX TO REAL ESTATE**

When permanently affixing drainage tile to real estate, your client will be functioning as a construction contractor. As such, your client, who is also the manufacturer of the tile, will incur tax liability based on its cost price of materials which are physically incorporated into the finished drainage tile which your client will permanently affix to real estate. If the suppliers from which your client purchases such materials are Illinois registered suppliers, your client should pay its tax liability to those suppliers. If your client's suppliers are not registered, it must pay its tax liability directly to the Illinois Department of Revenue at Item 5 on page 2 of the monthly tax return.

**AS TO SALES OF DRAINAGE TILE TO OTHER CONSTRUCTION  
CONTRACTORS**

When making sales of drainage tile to other construction contractors who will permanently affix that tile to real estate, your client will be making sales of tangible personal property to users (i.e., retailing). Consequently, your client should be registered under the Retailers' Occupation Tax Act and report retailers' occupation tax liability

calculated at 5% (State--4% Local--1%) of your client's gross proceeds from such sales. We are enclosing retailers' occupation tax Article No. 3 which explains gross receipts. Subject to the provisions of Article No. 3, your tax calculation is correct (i.e., gross receipts from sale x sales tax - total invoice).

Your client can avoid tax liability when making purchases of materials which will be physically incorporated into drainage tile which will be resold as tangible personal property to other contractors, by providing Illinois registered suppliers of such materials with Certifications of Resale containing all information required by retailers' occupation tax Article No. 13, enclosed.

#### CONTRACTORS ASSUMPTION OF ACCOUNTABILITY FOR TAX

Since your client purchases materials which will be incorporated into drainage pipe which he may permanently affix to real estate or which he may sell "over-the-counter" to other construction contractors, your attention is directed to Section 2 of Rule No. 15.

Very truly yours,

J. THOMAS JOHNSON  
Director of Revenue

By:

George C. Sorensen  
Staff Attorney  
Legal Division  
Springfield Office  
Phone: (217) 782-7054



ST 88-0503 - 07/15/1988 FARM MACHINERY & EQUIPMENT

A trencher & laser system used primarily to install a sub-irrigation system does not qualify for the Farm Machinery and Equipment Exemption.

July 15, 1988

Dear Mr.

This is to acknowledge receipt of your letter dated February 29, 1988.

In your letter, you indicate that you paid sales tax on a laser system you recently purchased. You will put the laser system on a trencher. By doing this, you will be able to accurately lay sub-irrigation lines for production agriculture application.

In connection with the above purchase, you ask whether the laser system qualifies for the farm machinery and equipment exemption.

Based on the information contained in your letter, it is our opinion that the laser system does not qualify for the farm machinery and equipment exemption. As noted at 86 Ill. Adm. Code 130.305(f), enclosed, the creation of drainage facilities is not production agriculture and equipment used to install irrigation systems does not qualify for the exemption.

Very truly yours,

Randall P. Bower  
Staff Attorney

The farm machinery and equipment exemption applies to machinery and equipment used in "production agriculture," which is limited to activities necessary in tilling the soil, planting, and cultivating. It does not include activities such as the clearing of land, mowing of fence rows, creation of ponds or drainage facilities. Therefore, drainage equipment is not exempt from tax under the farm machinery and equipment exemption. (This is a GIL.)

February 26, 1996

Dear Mr. Xxxxx:

This General Information Letter, issued pursuant to 2 Ill. Adm. Code 1200 (see enclosed), is in response to your letter dated November 8, 1995. Department rules require that the Department issue only two types of ruling letters, Private Letter Rulings and General Information Letters. The nature of your request and the information that you provided require that we respond with a General Information Letter. General Information Letters are designed to provide only background information on specific topics, not specific responses to an inquiry, and are not binding on the Department. See Section 1200.120(b) and (c).

In your letter, you have stated and made inquiry as follows:

We are writing to request a copy of the legal ruling on drainage pipe and culvert.

It is my understanding that these products are not exempt from sales tax even when used on a farm. We use these items for irrigation and drainage of fields for which we grow crops on.

Please find enclosed a copy of 86 Ill. Adm. Code 130.305 regarding the farm machinery and equipment exemption. Under this exemption, machinery and equipment that is used primarily (over 50% of the time) in production agriculture or for use in State or Federal agricultural programs may be purchased free from tax. Production agriculture includes seed stock grown for the propagation of feed grains and the husbandry of animals. In this respect, it includes activities necessary in tilling the soil, planting, and cultivating. It does not include activities such as the clearing of land, mowing of fence rows, creation of ponds or drainage facilities. Therefore, drainage equipment is not exempt from tax under the farm machinery and equipment exemption.

I hope this information is helpful. If you have further questions, please feel free to contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk  
Enc.

87-0578 - 08/07/1987 FARM MACHINERY AND EQUIPMENT

Tile used to irrigate a field can qualify for the farm machinery and equipment exemption while drainage tile can not.

August 7, 1987

Attention:

Dear

This is to acknowledge receipt of your letter dated July 20, 1987 in which you ask whether drainage plastic tile for farm use (irrigation and drainage) can qualify for the farm machinery and equipment exemption.

For your benefit, I have enclosed 86 Ill. Adm. Code 130.305. This is our regulation pertaining to the farm machinery and equipment exemption. As indicated in (f) of the regulation, irrigating constitutes "production agricultural". Consequently, plastic tiles used for irrigating the land can qualify for the farm machinery and equipment and exemption. However, the exemption does not cover drainage facilities. Thus, drainage tiles are subject to the full rate of sales tax.

The law requires that an item be used primarily in production agricultural. By "primarily," we mean more than 50%. If the plastic tile which you sell can be used for both irrigating and draining, the tile would have to be used primarily for irrigating the land before the exemption would be available.

If you have any additional questions, please feel free to contact me.

Very truly yours,

Randall P. Bower  
Staff Attorney