

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 130 Section 130.1948 Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprise Zones</b>
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**TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130  
RETAILERS' OCCUPATION TAX**

**Section 130.1948 Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprise Zones**

- a) The Retailers' Occupation Tax Act provides an exemption for *tangible personal property used or consumed in the operation of pollution control facilities, as defined in Section 1a of the Retailers' Occupation Tax Act, located within an enterprise zone established pursuant to the Illinois Enterprise Zone Act [35 ILCS 120/1e]*. The exemption contained in Section 1e of the Retailers' Occupation Tax Act applies to tangible personal property used or consumed in the operation of pollution control facilities located within an enterprise zone; the exemption does not apply to pollution control facilities that were exempt under Section 1a of the Retailers' Occupation Tax Act until July 1, 2003.
  
- b) The exemption only applies to a business that meets the following requirements contained in Section 1f of the Retailers' Occupation Tax Act:
  - 1) *is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act,*
  
  - 2) *makes investments that:*
    - A) *cause the creation of a minimum of 200 full-time equivalent jobs in Illinois; or*
  
    - B) *cause the retention of a minimum of 2,000 full-time jobs in Illinois; or*
  
    - C) *total a minimum of \$40,000,000 and retain at least 90% of the jobs in place on the date on which the exemption is granted and for the duration of the exemption; and*
  
  - 3) *is certified by the Department of Commerce and Economic Opportunity (DCEO) as complying with the requirements specified in this subsection (b). [35 ILCS 120/1f]*
  
- c) The phrase "*pollution control facilities*" means *any system, method, construction, device, or appliance appurtenant thereto, sold or used or intended for the primary purpose of eliminating, preventing, or reducing air and water pollution as the term "air pollution" or "water pollution" is defined in the Environmental Protection Act [415 ILCS 5] or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant that, if released without such treatment,*

*pretreatment, modification or disposal, might be harmful, detrimental or offensive to human, plant or animal life, or to property.* [35 ILCS 120/1a]

- d) If a business enterprise is certified by DCEO, all tangible personal property used or consumed by that enterprise in the operation of pollution control facilities within an enterprise zone is exempt from tax. In order to qualify, the item must be used exclusively in the enterprise zone and the pollution control facility must be located in the enterprise zone. By way of illustration, this exemption includes:
- 1) fuel used in operating pollution control facilities;
  - 2) chemicals used in the operation of pollution control facilities;
  - 3) catalysts used in the operation of pollution control facilities;
  - 4) equipment used to test, monitor or otherwise ascertain the suitability of a fuel, chemical or catalyst for use in the operation of pollution control facilities;
  - 5) equipment used to monitor or otherwise ascertain the effectiveness of pollution control facilities;
  - 6) lubricants and coolants used in the operation of pollution control facilities;
  - 7) protective clothing and safety equipment used in the operation of pollution control facilities;
  - 8) equipment used to transport fuel, chemicals, catalysts, lubricants, coolants or other operational supplies from a stock pile located in the enterprise zone to a pollution control facility located in the same enterprise zone;
  - 9) equipment used to transport filtered, treated or modified pollutants from a pollution control facility in an enterprise zone to another pollution control facility within the same enterprise zone for further filtering, treatment or modification; and
  - 10) equipment used to transport filtered, treated or modified pollutants from a pollution control facility in an enterprise zone to a disposal site in the same enterprise zone.
- e) No item used primarily in any activity other than the operation of pollution control facilities within an enterprise zone can qualify for this exemption. No item used or consumed outside the enterprise zone can qualify for the exemption. No item used or consumed in the operation of pollution control facilities that are located outside the enterprise zone can qualify for the exemption. By way of illustration, the exemption does not extend to:
- 1) equipment used to transport fuel, chemicals, catalysts or any other tangible personal property from a point outside the enterprise zone to a pollution control facility inside the enterprise zone;

- 2) equipment used to transport filtered, treated or modified pollutants from a pollution control facility in an enterprise zone to any location outside the enterprise zone;
  - 3) testing equipment used at a location outside an enterprise zone to monitor or otherwise ascertain the effectiveness of pollution control facilities located in an enterprise zone; or
  - 4) testing equipment used at a location in an enterprise zone to monitor or otherwise ascertain the effectiveness of pollution control facilities located outside the enterprise zone.
- f) This exemption from Illinois Retailers' Occupation Tax is available to all retailers registered to collect or remit Illinois sales tax. It is not restricted to retailers located in the enterprise zone.
- g) For this exemption to apply, the purchaser need not itself employ the tangible personal property in the operation of pollution control facilities. If the purchaser leases the items to a certified business that uses the items in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A retailer may deduct the sales from taxable gross receipts provided the purchaser-lessor provides to the retailer a properly completed exemption certificate and the information contained in the certificate would support the exemption if the sale were made directly to the certified business. Should a purchaser-lessor lease the items to a lessee that is not a certified business or to a certified business that does not use those items in the operation of pollution control facilities within an enterprise zone, the purchaser-lessor will become liable for the tax from which it was previously exempted.
- h) Documentation of Exemption
- 1) When a certified business (or the lessor of a certified business) initially purchases qualifying items from an Illinois registered retailer, the retailer must be provided with:
    - A) a copy of the current certificate of eligibility issued by DCEO; and
    - B) a written statement of exemption signed by the certified business (or its lessor) that the items being purchased will be used or consumed (or leased for use or consumption) in the operation of pollution control facilities at a specified location in a named enterprise zone established under the authority of the Illinois Enterprise Zone Act.
  - 2) If a copy of a certified business' current certificate of eligibility and statement of exemption are maintained by a retailer, the certified business (or its lessor) may claim the exemption on subsequent purchases from that retailer by indicating on the face of purchase orders that the transaction is exempt by referencing the certificate of eligibility and statement of exemption. This procedure on subsequent purchases is authorized only so long as the certificate of eligibility remains current. That is, the exemption can be claimed only as to purchases made during the effective period of the certificate of eligibility specified by DCEO on the face of the certificate of eligibility.

- 3) If a certified business (or its lessor) purchases tangible personal property that could reasonably be used in the operation of pollution control facilities, the certified business (or its lessor) should certify to the retailer in writing in order to relieve the retailer of the duty of collecting and remitting tax on the sale. However, the purchaser who certifies that the item is being purchased for a qualifying use in an enterprise zone by a certified business will be held liable for the tax by the Department if it is found that the item was not so used.
- i) An item that is used primarily in a qualifying manner at a qualifying location but that is converted to a nonexempt use or is moved to a nonexempt location will become subject to tax at the time of its conversion based on the fair market value of the item at the time of conversion to the nonexempt use.

(Source: Added at 39 Ill. Reg. 14616, effective October 22, 2015)