

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 130 Section 130.1954 Sales of Building Materials Incorporated into Real Estate within River Edge Redevelopment Zones**

**TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130  
RETAILERS' OCCUPATION TAX**

**Section 130.1954 Sales of Building Materials Incorporated into Real Estate within River Edge Redevelopment Zones**

- a) River Edge Redevelopment Zone – In General
  - 1) Effective July 12, 2006, each *retailer that makes a qualified sale of building materials to be incorporated into real estate within a River Edge Redevelopment Zone in accordance with the River Edge Redevelopment Zone Act by remodeling, rehabilitating, or new construction may deduct receipts from those sales when calculating the tax imposed by the Act.* (Section 2-54 of the Retailers' Occupation Tax Act [35 ILCS 120/2-54])
  - 2) A "*qualified sale*" means a sale of building materials that will be incorporated into real estate as part of an industrial or commercial project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the corporate authorities of the municipality in which the building project is located before July 1, 2013, and for which a River Edge Building Materials Exemption Certificate has been issued by the Department on or after July 1, 2013. (Section 2-54 of the Retailers' Occupation Tax Act [35 ILCS 120/2-54])
  - 3) "Industrial project" means:
    - A) a capital project, including one or more buildings and other structures, improvements, machinery and equipment, whether or not on the same site or sites, suitable for use by any manufacturing, industrial, research, transportation or commercial enterprise, including but not limited to use as a factory, mill, processing plant, assembly plant, packaging plant, fabricating plant, ethanol plant, office building, industrial distribution center, warehouse, repair, overhaul or service facility, freight terminal, research facility, test facility, railroad facility, port facility, solid waste and wastewater treatment and disposal sites and other pollution control facilities, resource or waste reduction, recovery, treatment and disposal facilities, and:
      - i) the sites of any of the facilities listed in this subsection (a)(3)(A) and other rights in land for those facilities, whether improved or unimproved;
      - ii) site preparation and landscaping for facilities listed in this subsection (a)(3)(A); and

- iii) all appurtenances and facilities incidental to the facilities listed in this subsection (a)(3)(A), such as utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, dockage, wharfage, railroad roadbed, track, trestle, depot, terminal, switching and signaling equipment or related equipment, and other necessary or convenient improvements; or
    - B) any land, buildings, machinery or equipment comprising an addition to or renovation, rehabilitation or improvement of any existing capital project.
  - 4) "Commercial project" means any project, including but not limited to one or more buildings and other structures, improvements, machinery and equipment, whether or not on the same site or sites, suitable for use by any retail or wholesale concern, distributorship or agency, any cultural facilities of a for-profit or not-for-profit type, including but not limited to educational, theatrical, recreational and entertainment, sports facilities, racetracks, stadiums, convention centers, exhibition halls, arenas, opera houses and theaters, waterfront improvements, swimming pools, boat storage, moorage, docking facilities, restaurants, velodromes, coliseums, sports training facilities, parking facilities, terminals, hotels and motels, gymnasiums, medical facilities and port facilities.
  - 5) Nothing in the definitions of "industrial project" or "commercial project" is meant to imply that the building materials exemption for an industrial project or commercial project may extend beyond the borders of the River Edge Redevelopment Zone or may extend beyond the exemption of sales of building materials incorporated into an industrial project or commercial project.
- b) Building Materials Purchased for Physical Incorporation into Real Estate Located in a River Edge Redevelopment Zone
- 1) In order to qualify for the exemption, the materials being purchased must be building materials. That is, they must be purchased for physical incorporation into real estate. For example, gross receipts from sales of the following items can qualify for the exemption:
    - A) common building materials such as lumber, bricks, cement, windows, doors, insulation, roofing materials and sheet metal;
    - B) plumbing systems and components such as bathtubs, lavatories, sinks, faucets, garbage disposals, water pumps, water heaters, water softeners and water pipes;
    - C) heating systems and components such as furnaces, ductwork, vents, stokers, boilers, heating pipes and radiators;
    - D) electrical systems and components such as wiring, outlets and light fixtures that are physically incorporated into the real estate;
    - E) central air conditioning systems, ventilation systems and components that are physically incorporated into the real estate;

- F) built-in cabinets and other woodwork that are physically incorporated into the real estate can qualify for the deduction;
  - G) built-in appliances such as refrigerators, stoves, ovens and trash compactors that are physically incorporated into the real estate; and
  - H) floor coverings such as tile, linoleum and carpeting that are glued or otherwise permanently affixed to the real estate by use of tacks, staples, or wood stripping filled with nails that protrude upward (sometimes referred to as tacking strips or tack-down strips).
- 2) Items that are not physically incorporated into the real estate cannot qualify for the exemption. For example, gross receipts from sales of the following do not qualify:
- A) tools, machinery, equipment, fuel, forms and other items that may be used by a construction contractor at a River Edge Redevelopment Zone site, but that are not physically incorporated into the real estate;
  - B) free-standing appliances such as stoves, oven, refrigerators, washing machines, portable ventilation units, window air conditioning units, lamps, clothes washers, clothes dryers, trash compactors and dishwashers that may be connected to and operate from a building's electrical or plumbing system but that do not become a component of those systems; and
  - C) floor coverings that are area rugs or that are attached to the structure using only two-sided tape.
- 3) Building materials incorporated into stand-alone residential homes, residential apartments, residential condominiums, residential townhouses, residential duplexes, residential buildings or residential structures do not qualify for the exemption. Building materials physically incorporated into a commercial project, a portion of which is dedicated for residential purposes, shall be allocated on a square-footage basis for common building materials (for example, lumber, cement, bricks, insulation, air conditioning and heating equipment serving an entire project and roofing materials) and directly allocated to either the commercial portion or residential portion when direct allocation of the building materials is possible (for example, bathtubs, sinks, lavatories, cabinets, built-in appliances and air conditioning and heating equipment serving individually owned or leased units or space). Only the building materials allocated to the commercial portion of the project can qualify for the exemption.
- c) Certificate of Eligibility for Sales Tax Exemption for Purchases Made through June 30, 2013
- 1) *To document the exemption, the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the corporate authorities of the municipality in which the real estate into which the building materials will be incorporated is located. The Certificate of Eligibility for Sales Tax Exemption must be obtained by the retailer prior to the sale.*

- 2) The Certificate of Eligibility for Sales Tax Exemption must contain all of the following:
  - A) *a statement that the commercial or industrial project identified in the Certificate meets all the requirements of the jurisdiction in which the project is located;*
  - B) *the location or address of the building project; and*
  - C) *the signature of the chief executive officer of the municipality in which the building project is located, or the chief executive officer's delegate.*
- 3) In order to properly document this exemption, prior to the sale *the retailer must also obtain a certificate from the purchaser that contains all of the following:*
  - A) *a statement that the building materials are being purchased for incorporation into real estate located in a River Edge Redevelopment Zone included in a redevelopment project area in accordance with the River Edge Redevelopment Zone Act:*
  - B) *the location or address of the real estate into which the building materials will be incorporated;*
  - C) *the name of the River Edge Redevelopment Zone in which the real estate is located;*
  - D) *a description of the building materials being purchased; and*
  - E) *the purchaser's signature and date of purchase. [35 ILCS 120/2-54]*
- d) Issuance of Exemption Certificates for Purchases Made on and after July 1, 2013
  - 1) *Upon request from the corporate authorities of the municipality in which the building project is located, the Department shall issue a River Edge Building Materials Exemption Certificate (Exemption Certificate) for each construction contractor or other entity identified by the corporate authorities of the municipality in which the building project is located. The Department shall make the Exemption Certificates available to the corporate authorities of the municipality in which the building project is located and each construction contractor or other entity.*
    - A) *The request for Exemption Certificates from the corporate authorities of the municipality in which the building project is located to the Department must include the following information:*
      - i) *the name, address, telephone number and e-mail address of the construction contractor or other entity;*
      - ii) *the name and number of the River Edge Redevelopment Zone in which the building project is located;*

- iii) *the name and location or address of the building project in the River Edge Redevelopment Zone;*
  - iv) *the estimated amount of the exemption for each construction contractor or other entity for which a request for Exemption Certificate is made, based on a stated estimated average tax rate and the percentage of the contract that consists of materials;*
  - v) *the period of time over which supplies for the project are expected to be purchased; and*
  - vi) *the FEIN of the construction contractor or other entity.*
- B) *The Department shall issue the Exemption Certificates within 3 business days after receipt of request from the corporate authorities of the municipality in which the building project is located unless the Department, for reasonable cause, is unable to issue the Exemption Certificate within 3 business days. Examples of "reasonable cause" include, but are not limited to, receipt of a request lacking all the information required by subsection (d)(1)(A), the receipt of a large number of requests for Exemption Certificates from a zone administrator, or lack of sufficient staff to process the number of existing requests.*
- C) *The Department may refuse to issue an Exemption Certificate if the owner, any partner, or a corporate officer, and in the case of a limited liability company, any manager or member, of the construction contractor or other entity is or has been the owner, a partner, a corporate officer, and in the case of a limited liability company, a manager or member, of a person that is in default for moneys due to the Department under the Retailers' Occupation Tax Act or any other tax or fee Act administered by the Department.*
- D) *The request for Exemption Certificates must be submitted electronically.*
- E) *The Exemption Certificate shall be effective for no more than 2 years after the date of issuance. At the request of the corporate authorities of the municipality in which the building project is located, the Department may renew an Exemption Certificate.*
- F) *After the Department issues Exemption Certificates for a given River Edge building project, the corporate authorities of the municipality in which the building project is located may notify the Department of additional construction contractors or other entities eligible for an Exemption Certificate. Upon notification by the corporate authorities of the municipality in which the building project is located, and subject to the other provisions of this subsection (d), the Department shall issue an Exemption Certificate to each additional construction contractor or other entity identified by the corporate authorities of the municipality in which the building project is located.*

- G) *The corporate authorities of the municipality in which the building project is located may notify the Department to rescind an Exemption Certificate previously issued by the Department but that has not yet expired. Upon notification by the corporate authorities of the municipality in which the building project is located, and subject to the other provisions of this subsection (d), the Department shall issue the rescission of the Exemption Certificate to the construction contractor or other entity identified by the corporate authorities of the municipality in which the building project is located and provide a copy to the corporate authorities of the municipality in which the building project is located.*
- 2) *Notwithstanding anything to the contrary in subsection (d), for River Edge building projects already in existence and for which construction contracts are already in place on July 1, 2013, the request for Exemption Certificates from the corporate authorities of the municipality in which the building project is located to the Department for these pre-existing construction contractors and other entities must include the information required under subsection (d)(1)(A), but not including the information listed in subsections (d)(1)(A)(iv) and (v). For any new construction contract entered into on or after July 1, 2013, however, all of the information in subsection (d) must be provided. [35 ILCS 120/2-54(d)]*
- e) Documentation of the Exemption for Purchases Made on or after July 1, 2013
- 1) *On and after July 1, 2013, to document the exemption allowed under this Section, the retailer must obtain from the purchaser the purchaser's Exemption Certificate number issued by the Department. A construction contractor or other entity shall not make tax-free purchases unless it has an active Exemption Certificate issued by the Department at the time of purchase. [35 ILCS 120/51(b)]*
- 2) The retailer must obtain a certification from the purchaser that contains:
- A) a statement that the building materials are being purchased for incorporation into real estate located in a River Edge Redevelopment Zone;
- B) the location or address of the real estate into which the building materials will be incorporated;
- C) the name of the River Edge Redevelopment Zone in which that real estate is located;
- D) a description of the building materials being purchased;
- E) the purchaser's Exemption Certificate number issued by the Department; and
- F) the purchaser's signature and date of purchase.
- 3) The retailer may comply with this subsection (e) certification requirement by securing from the purchaser a completed and signed Form EZ-1.

f) Penalties – Revocation – Protest Procedures

- 1) *If the Department of Revenue determines that a construction contractor or other entity that was issued an Exemption Certificate under subsection (d) made a tax-exempt purchase, as described in this Section, that was not eligible for exemption under subsection (d), or allowed another person to make a tax-exempt purchase, as described in subsection (d), that was not eligible for exemption under subsection (d), then, in addition to any tax or other penalty imposed, the construction contractor or other entity is subject to a penalty equal to the tax that would have been paid by the retailer under the Retailers' Occupation Tax Act as well as any applicable local retailers' occupation tax on the purchase that was not eligible for the exemption. [35 ILCS 120/5(b)]*
- 2) *Each contractor or other entity that has been issued an Exemption Certificate under Section 2-54 of the Retailers' Occupation Tax Act shall annually report to the Department the total tax benefits for taxes imposed by the State that are received under River Edge building materials exemption. Reports shall contain information reasonably required by the Department to enable it to verify and calculate the total tax benefits for taxes imposed by the State, and shall be broken down by River Edge Redevelopment Zone. Reports are due no later than May 31 of each year and shall cover the previous calendar year. Failure to report data may result in revocation of the River Edge Building Materials Exemption Certificate issued to the contractor or other entity. [65 ILCS 115/10-10.2(a-5)]*
- 3) Suspension of Exemption Certificate for Failure to Report Data: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (f)(2) shall have the Exemption Certificate for which it failed to report suspended.
  - A) First Offense: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (f)(2) shall have the Exemption Certificate suspended until the contractor or other entity complies with the reporting requirements of subsection (f)(2).
  - B) Second Offense: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (f)(2) for two reporting periods within a five-year period shall have all Exemption Certificates issued to it suspended until 30 days after the contractor or other entity complies with the reporting requirements of subsection (f)(2).
  - C) Subsequent Offenses: A contractor or other entity that fails to comply with the reporting requirements or deadlines of subsection (g)(2) for more than two reporting periods within a five-year period shall have all Exemption Certificates issued to it suspended until 180 days after the contractor or other entity complies with the reporting requirements of subsection (f)(2).
- 4) Suspension or Revocation of Exemption Certificate for Both Failure to Report Data and Unlawful Use of Exemption Certificate. Use by a contractor or other entity of its Exemption Certificate in violation of subsection (f)(1) and failure to comply with the reporting requirements of subsection (f)(2) for the same

certificate shall result in the suspension or revocation of the contractor's or other entity's Exemption Certificates.

- A) First Offense: In addition to all other penalties provided by law, a first offense shall result in the suspension of all Exemption Certificates issued to a contractor or other entity for 1 year.
  - B) Second Offense: In addition to all other penalties provided by law, a second offense shall result in permanent revocation of all Exemption Certificates issued to the contractor or other entity.
- 5) Ineligibility. A contractor or other entity is not eligible to receive additional Exemption Certificates during the period that one or more Exemption Certificates issued to it are subject to suspension or revocation.
- 6) Protest Procedures. Any person aggrieved by any decision of the Department under subsections (f)(3) through (f)(4) may, within 20 days after notice of the decision, protest and request a hearing, whereupon the Department shall give notice to that person of the time and place fixed for a hearing and shall hold a hearing and then issue its final administrative decision in the matter to that person. In the absence of a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

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