

This letter discusses various enterprise zone exemptions. See 86 Ill. Adm. Code 130.1951.
(This is a GIL.)

October 27, 2010

Dear Xxxxx:

This letter is in response to your letter dated July 2, 2009, in which you request 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:

We wish to request a Department Ruling on construction contractor activity within an enterprise zone. We are a construction contractor engaged in a project at the BUSINESS, which has been granted tax-exempt certification from the Illinois Department of Commerce and Economic Opportunity (see attached).

The exemption also allows the refinery in the enterprise zone exemption from state taxes on purchases of tangible personal property to be used or consumed in the manufacturing or assembly process or in the operation of a pollution control facility within the enterprise zone. Does this allow tax-exemption for the following: small tools, safety equipment, safety clothing, rental equipment parts, on-site signage, portable offices, portable restrooms and wash stations, equipment rentals from outside IL, fabric and filtering pipe (erosion prevention), and offices [sic] related items, which are all used/consumed at the project site?

Please respond in writing to my attention. If you need any additional information, please do not hesitate to contact me.

Thank you,

DEPARTMENT'S RESPONSE:

The Department's regulation governing various enterprise zone exemptions is found at 86 Ill. Adm. Code 130.1951. Among those exemptions are (i) the exemption for building materials purchased for physical incorporation into real estate located in an enterprise zone (Section 130.1951(a), (d), (e), and (f)), (ii) the exemption for sales of tangible personal property to be used or consumed within an enterprise zone in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease (Section 130.1951(g)), and (iii) the exemption for sales of tangible personal property purchased for use or consumption in the operation of pollution control facilities within an enterprise zone (Section 130.1951(i)). Eligibility for the building materials exemption requires, at a minimum, a Certificate of Eligibility for Sales Tax Exemption issued by the building zone administrator, and eligibility for the manufacturing or assembling exemption and the pollution control exemption requires, at a minimum, certification from the Department of Commerce and Economic Opportunity. In addition, all other requirements of the regulation must be met to be eligible for the exemptions.

Each type of exemption described in Section 130.1951 applies to different items and has its own criteria. Therefore, whether a given item is eligible for exemption depends on the basis for the exemption and how the item will be used. For example, hand tools are not eligible for exemption under the enterprise zone building materials exemption, but may be eligible under the enterprise zone manufacturing or assembling exemption if used primarily in manufacturing or assembling (and all other criteria of the exemption are met). In general, the enterprise zone building materials exemption would be the exemption most likely to apply to purchases made by a construction contractor. The enterprise zone manufacturing or assembling exemption and the enterprise zone pollution control exemption would only apply to purchases made by a construction contractor if that construction contractor is purchasing items that will be used in the manufacturing or assembling process or the operation of a pollution control facility and the item and its use otherwise meets the requirements of the exemption. Please consult the specific subsection of Section 130.1951 for examples of specific items covered by each type of exemption.

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.

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk