

ST 16-0036-GIL 08/18/2016 ENTERPRISE ZONES

The enterprise zone building materials exemption is explained in Section 130.1951 of the Department's regulations. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

August 18, 2016

Dear Xxxxx:

This letter is in response to your letter dated July 8, 2016, 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:

Per the enclosed email, I'm requesting a general letter ruling regarding the following Enterprise Zone question:

In an industrial subdivision, will infrastructure, such as drainage culverts, concrete and steel for pavement, buried utility lines, etc, qualify for the Enterprise Zone Program.

DEPARTMENT'S RESPONSE:

A deduction from Illinois Retailers' Occupation Tax liability is allowed for gross receipts from retail sales of building materials that will be incorporated, by remodeling, rehabilitation or new construction, into real estate located in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act. 35 ILCS 120/5k.

The Department recently updated its Enterprise Zone rule regarding the building materials exemption. See subsection (d) of 86 Ill. Adm. Code 130.1951, Sales of Building Materials Incorporated into Real Estate within Enterprise Zones. On and after July 1, 2013, to document the exemption, the retailer must obtain from the purchaser the purchaser's Exemption Certificate number issued by the Department, along with a copy of the certification required by subsection (d)(2) of the rule. The retailer may comply with this certification requirement by securing from the purchaser a completed

and signed Form EZ-1. A construction contractor or other entity may not make tax-free purchases unless it has an active Exemption Certificate issued by the Department at the time of purchase.

In order to qualify for the building materials 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 common building materials such as lumber, bricks, cement, windows, doors, insulation, roofing materials and sheet metal; plumbing systems and components thereof; heating systems and components thereof; electrical systems and components thereof; central air conditioning systems; built-in cabinets and appliances; and floor coverings such as tile, linoleum and carpeting that are glued or otherwise permanently affixed to the real estate can qualify for the exemption. 86 Ill. Adm. Code 1951(e).

Without more information we cannot advise if the infrastructure you describe would qualify for the exemption. However, drainage culverts, concrete and steel for pavement, and buried utility lines may qualify for the exemption if they are permanently affixed to real estate in an enterprise zone.

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:bkl