

Effective January 1, 2020, qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant is exempt from sales and use taxes. 35 ILCS 130/2-5(44); 86 Ill. Adm. Code 130.1957 (This is a GIL.)

November 7, 2023

NAME
COMPANY
ADDRESS

Dear NAME:

This letter is in response to your letter dated October 31, 2023, 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:

To Whom It May Concern,

I am writing on behalf of COMPANY, a Company located at, ADDRESS, to seek clarification and guidance regarding the eligibility of specific items for tax purposes. As advised by the Illinois Department of Revenue (IDOR), I am formally requesting a letter ruling to address our concerns.

Our inquiry pertains to materials we believe qualify for Building Materials Exemption Certification. We would like to ascertain whether these items qualify for certain tax benefits or exemptions. To provide the most comprehensive and accurate information, we have included a detailed explanation of each item, along with how they are incorporated into our business operations and structures. The solar array is a secondary use to

the data center on the property and considered a mechanical of the primary use.

- **Racking** - The racking is the metal structure that is set with piers into the ground and is a permanent fixture of the property.
- **Panels** - The panels will bolt to the racking and will be a permanent fixture.
- **Inverters** - The inverters [sic] are required to use the electricity and will be mounted to piers that are embedded in the ground in a permanent manner.
- **Combiners** - The combiners are mounted to the permanent racking and used to connect the DC power to the inverters.
- **Switchgears** - The switchgear is a part of the data center, this is the electrical grid tie component required for the data centers to have electricity.
- **Miscellaneous**

In accordance with the guidance provided by IDOR, we understand that there are no specific forms for this request. Therefore, we have submitted this written letter to your Legal Services Office for consideration.

We kindly request that the IDOR legal team review our submission and provide a formal letter ruling on the eligibility of the aforementioned items. We acknowledge that the legal team will make an effort to respond within ## days, and we are prepared to engage in any further communication or provide additional information as necessary to facilitate a prompt and informed resolution.

It is crucial for our business to have a clear understanding of the tax implication of these items, as this information directly impacts our financial planning and compliance with state tax laws.

Please feel free to contact me at PHONE or E-MAIL if there is a need for further clarification, additional documentation, or if you require any additional information to proceed with our request.

We appreciate your attention to this matter and look forward to a timely response from the IDOR Legal Services Office. Your guidance and clarification are essential for us to ensure full compliance with state tax regulations.

Thank you for your prompt assistance.

DEPARTMENT RESPONSE:

Effective January 1, 2020, qualified tangible personal property used in the construction or operation of a data center that has been granted a certificate of exemption by the Department of Commerce and Economic Opportunity, whether that tangible personal property is purchased by the owner, operator, or tenant of the data center or by a contractor or subcontractor of the owner, operator, or tenant, is exempt from sales and use taxes. 86 Ill. Adm. Code 130.1957. Data centers that would have qualified for a certificate of exemption prior to January 1, 2020, had Public Act 101-0031 been in effect, may apply for and obtain an exemption for subsequent purchases of computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the original investment that would have qualified. 86 Ill. Adm. Code 1957(d).

“Data center” means a building or a series of buildings rehabilitated or constructed to house working servers in one physical location or multiple sites within the State of Illinois. 35 ILCS 130/2-5(44). See FY 2020-04-A (Sept. 2019); 86 Ill. Adm. Code 130.1957 Tangible Personal Property Used in the Construction or Operation of Data Centers.

“Qualified tangible personal property” means:

electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations of a computer data center. The term “qualified tangible personal property” also includes building materials physically incorporated into the qualifying data center.

To receive the exemption, the data center must obtain a certificate of exemption from the Department of Commerce and Economic Opportunity. See 20 ILCS 605/605-1025. Each owner, operator, or tenant of a data center, or a contractor or subcontractor of the owner, operator or tenant, must provide an active certificate of exemption before it can make tax exempt purchases of qualified tangible personal property. 86 Ill. Adm. Code 130.1957(c).

COMPANY/NAME

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The Department is unable to provide a binding letter ruling based on the information you have provided. You may resubmit a new request that meets the requirements of 2 Ill. Adm. Code 1200.110. However, I would note that “qualified tangible personal property” includes data infrastructure and systems including installation of tangible personal property “to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property”.

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.

Yours truly,

Richard S. Wolters
Associate Counsel

RSW