

Tangible personal property purchased by construction contractors for contracts between construction contractors and entities that do not have an Exempt Identification Number (E-number), where the tangible personal property will be owned by the entity without an E-number upon incorporation, is not exempt from Retailers' Occupation Tax and Use Tax. See 86 Ill. Adm. Code 130.2075. (This is a GIL.)

August 1, 2025

NAME
TITLE
COMPANY
EMAIL

Dear NAME:

This letter is in response to your email dated May 12, 2025, 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 <https://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:

I'm trying to get a definitive answer to a sales tax exemption qualification question. We are installing solar projects on three buildings owned by a school district in IL. Normally a construction project with a school district would be exempt from sales and use tax in IL. In this case though our contract is with a third party who will own the solar panels being attached to the school buildings. The third party will have a Purchase Power Agreement (PPA) with the school district to supply them with the energy. Since our contract is not with the school district will this project still qualify for the tax exemption?

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See 35 ILCS 120/2; 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 35 ILCS 105/3; 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase. The retailers are then allowed to retain the amount of Use Tax paid to reimburse themselves for their Retailers' Occupation Tax liability incurred on those sales. If the purchases occur outside Illinois, purchasers must self-assess their Use Tax liability and remit it directly to the Department.

In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. The term construction contractor includes general contractors, subcontractors, and specialized contractors such as landscape contractors. The term contractor means any person or persons who are engaged in the occupation of entering into and performing construction contracts for owners. A contract that provides for both the sale and installation of tangible personal property that is permanently affixed or incorporated into a structure is considered a construction contract (even if the cost of installation is separately stated in the contract). As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. Therefore, any tangible personal property that general contractors or subcontractors purchase that will be permanently affixed to or incorporated into real property in this State will be subject to Use Tax. If contractors did not pay the Use Tax liability to their suppliers, contractors must self-assess their Use Tax liability and pay it directly to the Department. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075.

In Illinois, organizations that are determined by the Department to be exclusively charitable, religious, educational, or a governmental body, are issued tax exemption identification numbers ("E" numbers). Organizations holding such numbers are exempted from paying sales tax on organizational purchases. The organization must obtain and present this number to a retailer, however, before it can make a tax-free purchase. Suppliers selling tangible personal property to such exempt organizations must retain the "E" number in order to document the exempt sale.

Construction contractors who physically incorporate tangible personal property into real estate owned by holders of "E" numbers can purchase such property tax-free by providing their suppliers with a certification stating that its purchases are for conversion into

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real estate under a contract with the “E” number holder that is involved by name and address and stating on what date its contract was entered into. See 86 Ill. Adm. Code 130.2075(d). If, however, the contract is not between the construction contractor and the “E” number holder, but rather between the construction contractor and an entity that is not an “E” number holder and who will own the tangible personal property at the conclusion of the construction contract, the exemption does not apply.

I hope this information is helpful. If you require additional information, please visit our website at <https://tax.illinois.gov/> or contact the Department’s Taxpayer Information Division at 800-732-8866.

Very truly yours,

A handwritten signature in black ink, appearing to read 'GE', is written over a light gray rectangular background.

George L. Encarnacion, Jr.
Associate Counsel

GLE:sce