

ST 15-0009-GIL 01/12/2015 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.)

January 12, 2015

Dear Xxxx:

This letter is in response to your letter dated October 7, 2014, 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](http://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:

I am requesting a Private Letter Ruling, on behalf of COMPANY, account number #. We are a retailer/wholesaler of landscape, outdoor lighting, irrigation and nursery products and supplies.

Recently we were provided with a Building Materials Exemption Certificate, #, from Priority Landscape. They also completed Form EZ-1 Building Material Exemption Certification. They are requesting to be exempt from sales tax on grass seed, hydromulch, fertilizer, and other miscellaneous landscape products.

What we would like to determine is if these products would qualify as "Building Materials". In a previous audit, these types of products were disallowed, they did allow the irrigation system, siting [sic] that it was physically connecting to the building. But, our customer argues that these products will become a part of the property.

I have enclosed the documentation that we were provided, along with a description of the material they would like to purchase.

Thank you in advance for your assistance in this matter,

## **DEPARTMENT'S RESPONSE:**

The Department's regulation "Public Information, Rulemaking and Organization" provides that "[w]hether to issue a private letter ruling in response to a letter ruling request is within the discretion of the Department. The Department will respond to all requests for private letter rulings either by issuance of a ruling or by a letter explaining that the request for ruling will not be honored." 2 Ill. Adm. Code 1200.110(a)(4). The Department recently met and determined that it would decline to issue a Private Letter Ruling in response to your request. We hope however, the following General Information Letter will be helpful in addressing your question.

The Department's regulation governing various enterprise zone exemptions is found at 86 Ill. Adm. Code 130.1951. This regulation points out that this exemption applies to qualified sales of building materials to be incorporated into real estate in an enterprise zone by remodeling, rehabilitation or new construction. A "qualified sale" means a sale of building materials that will be incorporated into real estate as part of a building project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the administrator of the enterprise zone in which the building project is located.

Generally, landscape products such as trees, shrubs, topsoil, sod and grass seed that are physically incorporated (permanently transplanted or planted) do qualify as building materials and, thus, would qualify for the enterprise zone building materials exemption. In contrast, though, landscape products such as hydromulch and fertilizer do not qualify as building materials and would not qualify for the enterprise zone building materials exemption.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Debra M. Boggess  
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