

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 PLR.)

July 18, 2016

RE: Request for Binding Response-Illinois Enterprise Zone  
COMPANY, ADDRESS, CITY, IL

Dear Xxxxx:

This letter is in response to your letter dated April 29, 2016, 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.

Review of your request disclosed that all the information described in paragraphs 1 through 8 of Section 1200.110 appears to be contained in your request. This Private Letter Ruling will bind the Department only with respect to ABC, for the issue or issues presented in this ruling, and is subject to the provisions of subsection (e) of Admin. Code § 1200.110, governing expiration of Private Letter Rulings. Issuance of this ruling is conditioned upon the understanding that ABC, nor a related taxpayer is currently under audit or involved in litigation concerning the issues that are the subject of this ruling request. In your letter you have stated and made inquiry as follows:

I am writing to get a Binding Response or Letter Ruling from the Legal Department on whether or not The Cold Storage Racking Material in the Freezer Qualifies as Tax Exempt under the Illinois Enterprise Zone Exemption.

We are constructing a new 230,000 sf Cold Storage Building at the above noted address. The (3) Freezers will have permanent bolted down (to concrete floors) steel racking to store the food product. Product is made out of steel tubing with wire storage shelves and will be bolted down permanently into a 4" high concrete curb in the Freezers. We are including the following with this letter:

- COMPANY 2 Racking Drawings Showing:
  - Amount of Racking noted in a Plan View
  - Elevations of the Racking

Note that the attached drawings are the same drawings which were the basis for the purchase and future installation of the material.

**DEPARTMENT'S RESPONSE:**

An exemption from Illinois Retailers' Occupation Tax 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).

Based on your description of the Cold Storage Racking Material ("Racking Material"), the information you provided with your letter, and your representation that it will be incorporated into real estate located in an enterprise zone, it is the Department's opinion that the Racking Material qualifies for the Enterprise Zone building materials exemption.

The factual representations upon which this ruling is based are subject to review by the Department during the course of any audit, investigation, or hearing and this ruling shall bind the Department only if the factual representations recited in this ruling are correct and complete. This Private Letter Ruling is revoked and will cease to bind the Department 10 years after the date of this letter under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in this ruling.

I hope this information is helpful. If you have further questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, 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,

Richard S. Wolters  
Chairman, Private Letter Ruling Committee

RSW:DB:bkl