

ILLINOIS REGISTER

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
130.225	Amendment
130.530	Amendment
130.715	Amendment
130.2075	Amendment
- 4) Statutory Authority: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Sections 2505-25 and 2505-795 of the Department of Revenue Law [20 ILCS 2505].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements Public Act 103-983, which changed the tax obligation for retailers maintaining a place of business in this State making sales to Illinois customers from outside of this State. Prior to January 1, 2025, such sales were subject to Use Tax only. On and after January 1, 2025, these retailers incur destination-based retailers' occupation tax on these sales.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Actions</u>	<u>Illinois Register Citations</u>
130.305	Amendment	48 Ill. Reg. 13979; September 20, 2024
130.1415	Amendment	48 Ill. Reg. 13979; September 20, 2024
130.1955	Amendment	48 Ill. Reg. 13979; September 20, 2024
130.1970	Amendment	48 Ill. Reg. 13979; September 20, 2024
130.2100	Amendment	48 Ill. Reg. 13979; September 20, 2024

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130.2110	Amendment	48 Ill. Reg. 13979; September 20, 2024
130.801	Amendment	48 Ill. Reg. 14233; October 4, 2024
130.805	Amendment	48 Ill. Reg. 14233; October 4, 2024
130.810	Amendment	48 Ill. Reg. 14233; October 4, 2024
130.820	Amendment	48 Ill. Reg. 14233; October 4, 2024
130.825	Amendment	48 Ill. Reg. 14233; October 4, 2024
130.541	New Section	48 Ill. Reg. 15268; November 1, 2024
130.2532	New Section	48 Ill. Reg. 17483; December 6, 2024
130.120	Amendment	48 Ill. Reg. 17691; December 13, 2024
130.341	Repealed	48 Ill. Reg. 17691; December 13, 2024
130.501	Amendment	49 Ill. Reg. 322; January 10, 2025
130.535	Amendment	49 Ill. Reg. 322; January 10, 2025
130.565	New Section	49 Ill. Reg. 322; January 10, 2025
130.1520	Amendment	49 Ill. Reg. 322; January 10, 2025
130.2500	Amendment	49 Ill. Reg. 322; January 10, 2025

- 11) Statement of Statewide Policy Objectives: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Alexis K. Overstreet
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

(217) 782-7055
REV.GCO@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers with a physical presence in the State of

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Illinois making sales from locations outside of this State to consumers in Illinois.

- B) Reporting, bookkeeping or other procedures required for compliance: Basic accounting and computer skills.
- C) Types of professional skills necessary for compliance: Basic accounting and computer skills.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:

44-45 Retail Trade

- B) Categories that the agency reasonably believes the rulemaking will impact, including:

- i. hiring and additional staffing;
- iii. purchasing;
- vi. equipment and material needs;
- vii. training requirements;
- viii. record keeping

15) Regulatory Agenda on which this rulemaking was summarized: July 2024

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 130

RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section

- 130.101 Character and Rate of Tax
- 130.105 Responsibility of Trustees, Receivers, Executors or Administrators
- 130.110 Occasional Sales
- 130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
- 130.115 Habitual Sales
- 130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section

- 130.201 The Test of a Sale at Retail
- 130.205 Sales for Transfer Incident to Service
- 130.210 Sales of Tangible Personal Property to Purchasers for Resale
- 130.215 Illustrations of Sales for Use or Consumption Versus Sales for Resale
- 130.220 Sales to Lessors of Tangible Personal Property
- 130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section

- 130.305 Farm Machinery and Equipment
- 130.310 Food, Soft Drinks and Candy
- 130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
- 130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
- 130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
- 130.321 Fuel Used by Air Common Carriers in Flights Engaged in Foreign Trade or Engaged in Trade Between the United States and any of its Possessions
- 130.325 Graphic Arts Machinery and Equipment Exemption

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- 130.330 Manufacturing Machinery and Equipment
- 130.331 Manufacturer's Purchase Credit
- 130.332 Automatic Vending Machines
- 130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
- 130.340 Rolling Stock
- 130.341 Commercial Distribution Fee Sales Tax Exemption
- 130.345 Oil Field Exploration, Drilling and Production Equipment
- 130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
- 130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

SUBPART D: GROSS RECEIPTS

- Section
- 130.401 Meaning of Gross Receipts
- 130.405 How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
- 130.410 Cost of Doing Business Not Deductible
- 130.415 Transportation and Delivery Charges
- 130.420 Finance or Interest Charges – Penalties – Discounts
- 130.425 Traded-In Property
- 130.430 Deposit or Prepayment on Purchase Price
- 130.435 State and Local Taxes Other Than Retailers' Occupation Tax
- 130.440 Penalties
- 130.445 Federal Taxes
- 130.450 Installation, Alteration and Special Service Charges
- 130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

- Section
- 130.501 Monthly Tax Returns – When Due – Contents
- 130.502 Quarterly Tax Returns
- 130.505 Returns and How to Prepare
- 130.510 Annual Tax Returns
- 130.515 First Return
- 130.520 Final Returns When Business is Discontinued

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- 130.525 Who May Sign Returns
- 130.530 Returns Covering More Than One Location Under Same Registration –
Separate Returns for Separately Registered Locations
- 130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain
Instances
- 130.540 Returns on a Transaction by Transaction Basis
- 130.545 Registrants Must File a Return for Every Return Period
- 130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
- 130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
- 130.552 Alcoholic Liquor Reporting
- 130.555 Vending Machine Information Returns
- 130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

- Section
- 130.601 Preliminary Comments (Repealed)
- 130.605 Sales of Property Originating in Illinois; Questions of Interstate Commerce
- 130.610 Sales of Property Originating in Other States (Repealed)

SUBPART G: CERTIFICATE OF REGISTRATION

- Section
- 130.701 General Information on Obtaining a Certificate of Registration
- 130.705 Procedure in Disputed Cases Involving Certificates of Registration
- 130.710 Procedure When Security Must be Forfeited
- 130.715 Sub-Certificates of Registration
- 130.720 Separate Registrations for Different Places of Business of Same Taxpayer
Under Some Circumstances
- 130.725 Display
- 130.730 Replacement of Certificate
- 130.735 Certificate Not Transferable
- 130.740 Certificate Required For Mobile Vending Units
- 130.745 Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section

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- 130.801 Books and Records – General Requirements
- 130.805 What Records Constitute Minimum Requirement
- 130.810 Records Required to Support Deductions
- 130.815 Preservation and Retention of Records
- 130.820 Preservation of Books During Pendency of Assessment Proceedings
- 130.825 Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

SUBPART I: PENALTIES AND INTEREST

- Section
- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties
- 130.915 Criminal Investigations

SUBPART J: BINDING OPINIONS

- Section
- 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

- Section
- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

- Section
- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

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- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest
- 130.1520 Verified Credit

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

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SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers
- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1934 Community Water Supply
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1946 Tangible Personal Property Used or Consumed in Graphic Arts Production within Enterprise Zones Located in a County of more than 4,000 Persons and less than 45,000 Persons
- 130.1947 Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses
- 130.1948 Tangible Personal Property Used or Consumed in the Operation of Pollution Control Facilities Located within Enterprise Zones
- 130.1949 Sales of Building Materials Incorporated into the South Suburban Airport
- 130.1950 Sales of Building Materials Incorporated into the Illiana Expressway
- 130.1951 Sales of Building Materials Incorporated into Real Estate within Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1954 Sales of Building Materials Incorporated into Real Estate within River Edge

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	Redevelopment Zones
130.1955	Farm Chemicals
130.1956	Dentists
130.1957	Tangible Personal Property Used in the Construction or Operation of Data Centers
130.1958	Sales of Building Materials to be Incorporated into Real Estate in a Qualified Facility under the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act
130.1959	Sales of Building Materials to be Incorporated into a REV Illinois Project under the Reimagining Energy and Vehicles in Illinois Act
130.1960	Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
130.1965	Florists and Nurserymen
130.1970	Hatcheries
130.1971	Sellers of Pets and the Like
130.1975	Operators of Games of Chance and Their Suppliers
130.1980	Optometrists and Opticians
130.1985	Pawnbrokers
130.1990	Peddlers, Hawkers and Itinerant Vendors
130.1995	Personalizing Tangible Personal Property
130.2000	Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
130.2004	Sales to Nonprofit Arts or Cultural Organizations
130.2005	Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated as Businesses, and Suppliers of Such Persons
130.2006	Sales by Teacher-Sponsored Student Organizations
130.2007	Exemption Identification Numbers
130.2008	Sales by Nonprofit Service Enterprises
130.2009	Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
130.2010	Persons Who Rent or Lease the Use of Tangible Personal Property to Others
130.2011	Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
130.2012	Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
130.2013	Persons in the Business of Both Renting and Selling Tangible Personal Property – Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons

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- 130.2025 Picture-Framers
- 130.2030 Public Amusement Places
- 130.2035 Registered Pharmacists and Druggists
- 130.2040 Retailers of Clothing
- 130.2045 Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
- 130.2050 Sales and Gifts By Employers to Employees
- 130.2055 Sales by Governmental Bodies
- 130.2060 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
- 130.2065 Sales of Automobiles for Use In Demonstration (Repealed)
- 130.2070 Sales of Containers, Wrapping and Packing Materials and Related Products
- 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
- 130.2076 Sales to Purchasers Performing Contracts with Governmental Bodies
- 130.2080 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
- 130.2081 Tax-Free Purchases By Exempt Entities, Their Employees and Representatives, and Documenting Sales to Exempt Entities, Their Employees and Representatives
- 130.2085 Sales to or by Banks, Savings and Loan Associations and Credit Unions
- 130.2090 Sales to Railroad Companies
- 130.2095 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
- 130.2100 Sellers of Feeds and Breeding Livestock
- 130.2101 Sellers of Floor Coverings
- 130.2105 Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfers of Data Downloaded Electronically
- 130.2110 Sellers of Seeds and Fertilizer
- 130.2115 Sellers of Machinery, Tools and Special Order Items
- 130.2120 Suppliers of Persons Engaged in Service Occupations and Professions
- 130.2125 Discount Coupons, Gift Situations, Trading Stamps, Automobile Rebates and Dealer Incentives
- 130.2130 Undertakers and Funeral Directors
- 130.2135 Vending Machines
- 130.2140 Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
- 130.2145 Vendors of Meals
- 130.2150 Vendors of Memorial Stones and Monuments
- 130.2155 Tax Liability of Sign Vendors
- 130.2156 Vendors of Steam

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- 130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
- 130.2165 Veterinarians
- 130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

- 130.2500 Direct Payment Program
 - 130.2505 Qualifying Transactions, Non-transferability of Permit
 - 130.2510 Permit Holder's Payment of Tax
 - 130.2515 Application for Permit
 - 130.2520 Qualification Process and Requirements
 - 130.2525 Application Review
 - 130.2530 Recordkeeping Requirements
 - 130.2535 Revocation and Withdrawal
-
- 130.ILLUSTRATION A Examples of Tax Exemption Cards
 - 130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
 - 130.ILLUSTRATION C Food Flow Chart
 - 130.ILLUSTRATION D Example of a Notice of Expiration of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Sections 2505-25 and 2505-795 of the Department of Revenue Law [20 ILCS 2505].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26,

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1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398,

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effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1, 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201, effective March 20, 2019; amended at 43 Ill. Reg. 5069, effective April 17, 2019;

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amended at 43 Ill. Reg. 8865, effective July 30, 2019; emergency amendment at 43 Ill. Reg. 9841, effective August 21, 2019, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 552, effective December 27, 2019, for a maximum of 150 days; emergency expired May 24, 2020; emergency amendment at 44 Ill. Reg. 2055, effective January 13, 2020, for a maximum of 180 days; amended at 44 Ill. Reg. 5392, effective March 16, 2020; amended at 44 Ill. Reg. 10981, effective June 10, 2020; amended at 44 Ill. Reg. 13975, effective August 11, 2020; amended at 45 Ill. Reg. 352, effective December 21, 2020; amended at 45 Ill. Reg. 7248, effective June 3, 2021; amended at 45 Ill. Reg. 14464, effective November 2, 2021; amended at 45 Ill. Reg. 16058, effective December 3, 2021; amended at 46 Ill. Reg. 6745, effective April 12, 2022; amended at 46 Ill. Reg. 7785, effective April 26, 2022; amended at 46 Ill. Reg. 10905, effective June 7, 2022; amended at 46 Ill. Reg. 15336, effective August 23, 2022; amended at 46 Ill. Reg. 18120, effective October 25, 2022; amended at 46 Ill. Reg. 18827, effective November 1, 2022; amended at 47 Ill. Reg. 1426, effective January 17, 2023; amended at 47 Ill. Reg. 2116, effective January 24, 2023; amended at 47 Ill. Reg. 5751, effective April 4, 2023; amended at 47 Ill. Reg. 6068, effective April 12, 2023; amended at 47 Ill. Reg. 6309, effective April 18, 2023; amended at 47 Ill. Reg. 19135, effective December 6, 2023; amended at 47 Ill. Reg. 19349, effective December 12, 2023; amended at 48 Ill. Reg. 1870, effective January 18, 2024; amended at 48 Ill. Reg. 2856, effective February 8, 2024; amended at 48 Ill. Reg. 10646, effective July 2, 2024; amended at 48 Ill. Reg. 14779, effective September 25, 2024; amended at 48 Ill. Reg. 16529, effective November 4, 2024; amended at 49 Ill. Reg. _____, effective _____.

SUBPART B: SALE AT RETAIL

Section 130.225 Drop Shipments

- a) A drop-shipment situation is one in which out-of-State purchasers (purchasers) that are not registered with the State of Illinois and that do not have sufficient nexus with Illinois to require them to collect Illinois Use Tax or remit Retailers' Occupation Tax make purchases for resale from companies (companies) that are registered with Illinois and have those companies drop-ship the property to purchasers' customers (customers) located in Illinois. As sellers required to collect Illinois tax, companies must either charge tax or document exemptions when they make deliveries in Illinois. In order to document the fact that their sales to purchasers are sales for resale, companies are obligated by Illinois to obtain valid Certificates of Resale from purchasers. (See 86 Ill. Adm. Code 130.1405 for information on what is required for a Certificate of Resale to be valid.)

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- b) If purchasers have no nexus with Illinois, it is unlikely that purchasers would be registered with Illinois. If that is the case, and if purchasers have no contact with Illinois that would require them to be registered as retailers maintaining a place of business in this State, as remote retailers or out-of-State Use Tax collectors for Illinois then purchasers could obtain resale numbers, which would provide them the wherewithal to supply required numbers to companies in conjunction with Certificates of Resale. Resale numbers are issued to persons who make no taxable sales in Illinois but who need the wherewithal to provide suppliers with Certificates of Resale when purchasing items that will be resold. So long as purchasers (including remote retailers) do not act as Illinois retailers and, so long as they do not fall under the definition of a "retailer maintaining a place of business in this State", their sales to Illinois customers are not subject to Illinois Retailers' Occupation Tax liability and they cannot be required to act as Use Tax collectors. So long as this is true, purchasers qualify for resale numbers that do not require the filing of tax returns with the Illinois Department of Revenue (the Department). (See 86 Ill. Adm. Code 130.1415 for information on resale numbers.) To determine if a purchaser is a "retailer maintaining a place of business in this State" ~~or a "remote retailer"~~ required to register with the Department, see 86 Ill. Adm. Code 150.201 or 86 Ill. Adm. Code 131.105 ~~131.115, respectively~~.
- c) The fact that purchasers may not be required to remit Retailers' Occupation Tax ~~and~~ act as Use Tax collectors for Illinois does not relieve their customers of Use Tax liability. Therefore, if purchasers do not collect Illinois Use Tax from their customers, the customers would have to pay their tax liability directly to the Department.
- d) While active registration or resale numbers on Certificates of Resale are still preferred, the Illinois Retailers' Occupation Tax Act provides that *failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale or that a particular sale is a sale for resale* [35 ILCS 120/2c]. In light of this statutory language, certifications from purchasers on Certificates of Resale in lieu of resale numbers that described the drop-shipment situation and the fact that purchasers have no contact

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with Illinois that would require them to be registered and that they choose not to obtain Illinois resale numbers would constitute evidence that this particular sale is a sale for resale despite the fact that no registration number or resale number is provided. The risk run by companies in accepting such a certification and the risk run by purchasers in providing such a certification is that an Illinois auditor is much more likely to go behind a Certificate of Resale that does not contain a valid resale number and require that more information be provided by companies as evidence that the particular sale was, in fact, a sale for resale.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART E: RETURNS

**Section 130.530 Returns Covering More Than One Location Under Same Registration -
- Separate Returns for Separately Registered Locations**

- a) Where any taxpayer under the Retailers' Occupation Tax Act conducts, at more than one location within the State, a business which comes within the Act, and as to which separate locations the taxpayer has not obtained separate Certificates of Registration as is permitted by the Act under some circumstances (see Subpart G of this Part), ~~the taxpayer~~ shall file ~~their~~ returns as consolidated returns covering business operations at all of ~~the taxpayer's~~ locations, and ~~the taxpayer~~ should not file separate returns for each location.
- b) Such consolidated return must be filed on the Sales and Use Tax Return Form ST-1, supplemented by Form ST-2. If the taxpayer is engaged in the retail business at more than one location which imposes the Home Rule Municipal Retailers' Occupation Tax, Non-Home Rule Municipal Retailer's Occupation Tax, the Home Rule County Retailers' Occupation Tax, or taxes pursuant to ~~Section 4 of the Water Commission Act~~, Section 5.01 of the Local Mass Transit District Act or Section 4.03 of the Regional Transportation Authority Act, the tax rate for gross receipts from sales at each site within each entity shall be printed on the ST-2.
- c) The total amount of net tax due shown on Form ST-2 should be equal to the amount of net tax due shown on the return Form ST-1.

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- d) Where the same person has more than one business registered with the Department under separate registrations under the Act, such persons shall not file each return that is due as a single return covering all such registered businesses, but shall file a separate return for each such registered business.
- e) Beginning January 1, 2025, retailers maintaining a place of business in this State making retail sales of tangible personal property to Illinois customers from a location or locations outside of Illinois must use Form ST-2 to report sales made to Illinois customers listing the Illinois location to which the tangible personal property was shipped or delivered or at which possession was taken by the purchaser ("destination sourcing") for sales that would otherwise be sourced outside of this State.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART G: CERTIFICATE OF REGISTRATION

Section 130.715 Sub-Certificates of Registration

- a) When a registered taxpayer, such as a company operating chain stores, engages in the business of selling tangible personal property at retail in this State from more than one location, the Department shall furnish to that registered taxpayer a sub-certificate of registration for each additional place of business.
- b) Each sub-certificate will bear the same registration number as that appearing upon the certificate of registration to which the sub-certificate relates.
- c) If the applicant will sell tangible personal property at retail through vending machines, the Department shall furnish the applicant with a sub-certificate of registration for each vending machine, and the applicant shall display the appropriate sub-certificate of registration on each vending machine by attaching the sub-certificate of registration to a conspicuous part of the vending machine.

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- d) Beginning January 1, 2012, *if a person who is registered to sell tangible personal property at retail through vending machines adds an additional vending machine or additional vending machines to the number of vending machines he or she uses in his or her business of selling tangible personal property at retail, he or she shall contact the Department, on a form prescribed by the Department, to request an additional sub-certificate or additional sub-certificates of registration, as applicable. With each such request, the applicant shall report the number of sub-certificates of registration being requested, as well as the total number of vending machines from which retail sales are being made.* (Section 2a of the Act) Additional sub-certificates of registration may be requested electronically on the Department's website at <https://tax.illinois.gov/www.tax.illinois.gov>.
- e) This section does not apply to the out-of-State locations of retailers maintaining a place of business in this State who must file using destination-based sourcing for their sales to Illinois customers from outside this State. See 86 Ill. Adm. Code 130.530.

(Source: Amended at 49 Ill. Reg. _____, effective _____)

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2075 Sales To Construction Contractors, Real Estate Developers and Speculative Builders

- a) Sales to Construction Contractors, Real Estate Developers and Speculative Builders – When Taxable and When Not Taxable
- 1) Persons who engage in selling tools, equipment, fuel, supplies and other tangible personal property to construction contractors, real estate developers or speculative builders for use or consumption incur Retailers' Occupation Tax liability when making such sales. Also, persons who (apart from acting as construction contractors themselves) engage in selling building materials, fixtures, plants and other tangible personal property to construction contractors, speculative builders or real estate developers, who convert such items into real estate so as to take such items off the market as

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tangible personal property, incur Retailers' Occupation Tax liability when making such sales.

- 2) When the purchasing construction contractor (whether **ithe** is the prime contractor or the subcontractor) buys the item that **ithe** will convert into real estate in finished form, the tax base is what such construction contractor pays for the item. When the construction contractor-installer (whether **ithe** is the prime contractor or a subcontractor) is also the manufacturer of the finished item that **ithe** will incorporate into real estate for his customer, the tax base is what such construction contractor pays for the materials that **ithe** incorporates into such finished item, plus whatever such construction contractor may pay for nails, screws or other items of tangible personal property that **ithe** buys and incorporates into real estate for **itshis** customer in the course of making the installation of the finished item.
 - 3) For information as to who qualifies as a construction contractor, see Section 130.1940(a) and (c) of this Part.
 - 4) Sales of tangible personal property to construction contractors, real estate developers or speculative builders who resell such property in the form of tangible personal property would not be taxable sales, but the construction contractor, real estate developer or speculative builder would be making taxable resales in this situation (see Section 130.1940(b) and (c) of this Part).
- b) When and How Purchasing Contractor May Certify that He Will Assume Accountability for the Tax-Effect of Such Certification
- 1) When the purchaser of tangible personal property may use such property by converting it into real estate, but may resell such property "over-the-counter" apart from acting as a construction contractor, and where it is impracticable, at the time of purchasing such tangible personal property, for such purchaser to determine in which way **ithe** will dispose of the property, such purchaser may certify to **itshis** vendor that **ithe** is buying all of such tangible personal property for

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resale and thereafter account to the Department for the tax on disposing of such property.

- 2) The purchaser may not give such certification to ~~itshis~~ supplier unless the purchaser, if ~~ithe~~ will convert the tangible personal property into real estate in this State, agrees to, and does, assume the liability for reporting and paying the tax to the Department in the same form (Illinois Retailers' Occupation Tax, and local Retailers' Occupation Tax if applicable) in which the supplier would have reported and paid such tax if the supplier had accounted for the tax to the Department. This means that if the purchaser uses the tangible personal property by converting it into real estate in this State in any manner, ~~the purchaserhe~~ must include the cost price of such tangible personal property in ~~itshis~~ reported taxable receipts in ~~itshis~~ return form to the Department and must pay the State Retailers' Occupation Tax along with any other applicable Retailers' Occupation Taxes (not the Use Tax, but the Retailers' Occupation Tax) thereon to the Department, and must pay ~~any applicable locally imposed retailers' occupation taxthe Home Rule Municipal or County Retailers' Occupation Tax thereon, if applicable.~~

- 3) The local Retailers' Occupation Tax to be paid by the contractor or builder in this situation shall be paid for the benefit of the entity in which the place of business at or from which the contractor or builder handles the transaction is located, if such entity has adopted the local Retailers' Occupation Tax at the time when the contractor or builder converts the tangible personal property in question into real estate. For example, a contractor who is registered at a location in Springfield, Illinois, and who also sells "over-the-counter" gives the certification described in subsection (b)(2) of this Section when ~~ithe~~ buys dry wall from a supplier located in Champaign, Illinois. Subsequent to the purchase, the contractor incorporates some of the dry wall into real estate on a job. The contractor must account for the tax by paying the State Retailers' Occupation Tax and the Springfield Home Rule Municipal Retailers' Occupation Tax on ~~itshis~~ return by including the cost price of the dry wall converted to real estate in ~~itshis~~ taxable receipts.

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- 4) Such purchaser, who assumes the responsibility for accounting for the tax, must pay State Retailers' Occupation Tax (plus local Retailers' Occupation Tax, if applicable) on the full selling price of the tangible personal property if the purchaser resells the property "over-the-counter" to a user (including a construction contractor) apart from acting as a construction contractor himself.
 - 5) A purchaser of this type would have to be registered with this Department under the Retailers' Occupation Tax Act since the purchaser would be incurring some Retailers' Occupation Tax liability, so it would be required to furnish its vendor with its Retailers' Occupation Tax registration number in the certification referred to in subsection (b)(1) of this Section.
 - 6) The tax involved in this Section is State Retailers' Occupation Tax and Use Tax and local Retailers' Occupation Tax, but not State or local Service Occupation Tax or Service Use Tax.
 - 7) Purchasing contractors may not give this certification to make purchases from out-of-enterprise zone (see Section 130.1951 of this Part) retailers with resale certificates and then claim they are retailers entitled to claim the enterprise zone exemption to avoid the tax on sales of building materials.
- c) Retailers' Occupation Tax and Use Tax on Out-of-State Purchases
- 1) Tangible personal property purchased outside this State either by Illinois or out-of-State construction contractors or builders in such a way that the seller does not incur Retailers' Occupation Tax liability and used in this State for building purposes remains subject to the Use Tax. If the purchaser makes such a purchase, the purchaser should pay the Use Tax directly to the Department. Examples of situations in which no retailers' occupation tax liability would be incurred include:
 - A) Builders traveling outside of this State to purchase the tangible personal property before bringing it into this State themselves, or

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B) builders purchasing the tangible personal property from a remote retailer who has no physical or economic nexus with this State and the tangible personal property was shipped to the builder in Illinois.

2) On and after January 1, 2025, if the purchaser buys tangible personal property from an out-of-State retailer who is a retailer maintaining a place of business in this State, the out-of-State retailer should remit applicable State and local retailers' occupation tax on the sale of the tangible personal property to the Department unless the purchaser is also a retailer and elects to assume responsibility for accounting for all the tax on such materials.

~~Tangible personal property bought outside this State either by Illinois or out-of-State construction contractors or builders in such a way that the seller does not incur Retailers' Occupation Tax liability and used in this State for building purposes is subject to the Use Tax. If the purchaser buys such tangible personal property from an out-of-State seller who is registered with the Department as a Use Tax collector, the purchaser should pay the Use Tax to such seller unless the purchaser is also a retailer and elects to assume responsibility for accounting for all the tax on such materials. If the purchaser buys such materials outside Illinois from an unregistered seller, the purchaser should pay the Use Tax directly to this Department. No local Retailers' Occupation Tax is applicable in this situation.~~

d) Sales of Materials to Construction Contractors Acting for Exclusively Charitable, Religious or Educational Organizations or Institutions, or for Governmental Bodies

1) Sales of materials to construction contractors for incorporation into real estate owned by exclusively charitable, religious or educational institutions or organizations, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older, or for incorporation into real estate owned by governmental bodies, are exempt from Retailers' Occupation Tax and Use Tax. The

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intent of the Legislature was to relieve the above-designated kinds of purchasers from the burden of tax on their purchases whether the purchases are made directly or indirectly by these organizations. Therefore, the exemption applies to their indirect purchase of building materials.

- 2) However, effective March 17, 1965, this exemption does not extend to sales of materials to construction contractors for incorporation into real estate owned by a national bank, a State-chartered bank or a Federally or State-chartered savings and loan association (see Section 130.2085 of this Part). Sales of materials to, and purchases of materials by, such construction contractors are taxable sales and purchases.
- 3) Also, sales of tools, fuel, lumber for forms and other end use or consumption items to construction contractors who do not incorporate these items into real estate are taxable sales regardless of who the contractor's customer may be, and this has been true since the beginning of the Act.
- 4) A supplier claiming exemption hereunder shall have among **itshis** records a certification from the purchasing contractor stating that **itshis** purchases are for conversion into real estate under a contract with a church, charity, school or governmental body, identifying the church, charity, school or governmental body that is involved by name and address and stating on what date **itshis** contract was entered into. The supplier shall also have among **itshis** records the active exemption number issued by the Department to the organization for which the purchasing contractor is acting.
- e) Sales of Materials to Construction Contractors for Incorporation into Public Improvements Which Are Required to be Transferred to a Unit of Local Government Upon Completion

For the same reason stated in subsection (d) of this Section, sales to construction contractors of materials which will be physically incorporated into public improvements, the ownership of which is required to be conveyed to a unit of local government pursuant to a pre-development transfer

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requirement are exempt from Retailers' Occupation Tax and Use Tax. The supplier shall have among ~~its~~**his** records the active registration number issued by the Department to the governmental unit to which the public improvements will be transferred upon completion. The pre-development transfer requirement may take the following forms:

- 1) Where language in the local governmental unit's subdivision ordinance explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements (such as roads and streets, sidewalks, sanitary sewer systems and storm water drainage systems) actually required to be transferred under the terms of that ordinance;
- 2) Where language in a pre-development agreement between the local governmental unit and a developer explicitly requires that title to public improvements be transferred to the local governmental unit upon completion, the pre-development transfer requirement is satisfied as to all public improvements actually required to be transferred under the terms of that pre-development agreement;
- 3) Where a plat of subdivision, formally approved by a municipality, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of improvements, the pre-development transfer requirement is satisfied as to roads and streets located within the corporate limits of the approving municipality and any other improvements located within the corporate limits which are dedicated on the plat to the public use and for no other purpose;
- 4) Where a plat of subdivision, formally approved by a county with fewer than 500,000 inhabitants which has established regulations regarding location, width and course of roads and streets, has been recorded with the County Recorder of Deeds and where that recorded plat contains a public dedication of roads and streets located in the unincorporated area of the approving county, the pre-development transfer requirement is satisfied as to those public roads and streets. In this context, only grading and surface materials which actually become part of the roadbed and materials incorporated into curbs

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and gutters qualify for the exemption. Other items such as catch basins, drainage pipe or materials incorporated into sidewalks do not qualify for the exemption.

(Source: Amended at 49 Ill. Reg. _____, effective _____)