

ILLINOIS REGISTER

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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>
130.1958	New Section
130.1959	New Section
- 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 Acts 102-1125 and 102-669 as codified in 35 ILCS 120/5m, and Public Act 102-700 as codified in 35 ILCS 120/5n.

New Section 130.1958 is created to implement the statutory exemption under Section 5n of the Retailers' Occupation Tax Act, 35 ILCS 120/5n. The exemption provides that sales of building materials that will be incorporated into real estate in a qualified facility, for which a certificate of exemption has been issued by the Department of Commerce and Economic Opportunity ("DCEO") under Section 110-105 of the Manufacturing Illinois Chips for Real Opportunity ("MICRO") (Act, 35 ILCS 45/110-1 et seq.), are exempt from State or local use and occupation taxes. This new section 130.1958 provides examples of qualifying and non-qualifying building materials, explains the certification process with the Illinois Department of Revenue ("IDOR"), provides suspension and revocation criteria for failure to file an annual report or unlawful use of an exemption certificate, lists annual report requirements, and describes ineligibility and protest procedures.

New Section 130.1959 is created to implement the statutory exemption under Section 5m of the Retailers' Occupation Tax Act, 35 ILCS 120/5m. The exemption provides that sales of building materials that will be incorporated into a REV Illinois Project, for which a certificate of exemption has been issued by the DCEO under Section 105 of the Reimagining Energy and Vehicles in Illinois Act ("REV Illinois Act") (20 ILCS 686/1 et seq.), are exempt from State or local use and occupation taxes. This new section 130.1959 provides examples of qualifying and non-qualifying building materials, explains the certification process with IDOR, provides suspension and revocation criteria for failure to file an annual report or unlawful use of an exemption certificate, lists annual report requirements, and describes ineligibility and protest procedures.

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- 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>
130.210	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.215	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.330	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.1930	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.1980	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.2005	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.2020	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.2145	Amendment	48 Ill. Reg. 3576; March 15, 2024
130.120	Amendment	48 Ill. Reg. 6748; May 10, 2024
130.320	Amendment	48 Ill. Reg. 6748; May 10, 2024

- 11) Statement of Statewide Policy Objectives: This rulemaking does 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:

Katarzyna Kowalska  
Associate Counsel  
Legal Services Office - Sales and Excise Tax Policy  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794

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Phone: 217-782-2844  
REV.GCO@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Affects entities engaged in 1) semiconductor manufacturing, microchip manufacturing, or manufacturing of semiconductor or microchip component parts; and 2) electric vehicle manufacturing, an electric vehicle component parts manufacturing, an electric vehicle power supply equipment manufacturing, or renewable energy manufacturing.
  - B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping.
  - C) Types of professional skills necessary for compliance: Accounting, bookkeeping, sales tax compliance.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:  
  
31-33 Manufacturing
  - B) Categories that the agency reasonably believes the rulemaking will impact, including:
    - ii. regulatory requirements
    - viii. record keeping
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2024

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

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**Section 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**

- a) Each retailer who makes a sale of building materials that will be incorporated into real estate in a qualified facility for which a certificate of exemption has been issued by the Department of Commerce and Economic Opportunity ("DCEO") under Section 110-105 of the Manufacturing Illinois Chips for Real Opportunity (MICRO) Act ("MICRO Act") (35 ILCS 45/110-105), may deduct receipts from such sales when calculating any State or local use and occupation taxes. [35 ILCS 120/5n]
  
- b) No retailer who is eligible for the deduction or credit under Section 5k of the Retailers' Occupation Tax Act ("ROTA") related to enterprise zones or Section 5l of the ROTA related to High Impact Businesses for a given sale shall be eligible for the deduction or credit authorized under Section 5n of the ROTA for that same sale. [35 ILCS 120/5n]
  
- c) Building materials that are physically incorporated into the real estate in a qualified facility and thus qualify for the exemption include but are not limited to:
  - 1) Common building materials such as lumber, bricks, cement, windows, doors, insulation, roofing materials, and sheet metal;
  
  - 2) Plumbing systems and components such as bathtubs, lavatories, sinks, faucets, garbage disposals, water pumps, water heaters, water softeners, and water pipes;
  
  - 3) Heating systems and components such as furnaces, ductwork, vents, stokers, boilers, heating pipes, and radiators;
  
  - 4) Electrical systems and components such as wiring, outlets, and light fixtures that are physically incorporated into the real estate;
  
  - 5) Central air conditioning systems, ventilation systems, and components that are physically incorporated into the real estate;

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- 6) Built-in cabinets and other woodwork that are physically incorporated into the real estate;
  - 7) Built-in appliances such as refrigerators, stoves, ovens, and trash compactors that are physically incorporated into the real estate; and
  - 8) Floor coverings such as tile, linoleum, and carpeting that are glued or otherwise permanently affixed to the real estate by use of tacks, staples, or wood stripping filled with nails that protrude upward also known as tacking strips or tack-down strips.
- d) Building materials that are not physically incorporated into the real estate in a qualified facility and thus do not qualify for the exemption include but are not limited to:
- 1) Tools, machinery, equipment, fuel, forms, and other items that may be used by a construction contractor at a qualified facility, but that are not physically incorporated into the real estate;
  - 2) Free-standing appliances such as stoves, ovens, refrigerators, washing machines, portable ventilation units, window air conditioning units, lamps, clothes washers, clothes dryers, trash compactors, and dishwashers that may be connected to and operate from a building's electrical or plumbing system but that do not become a component of those systems; and
  - 3) Floor coverings that are area rugs or that are attached to the structure using only two-sided tape.
- e) Certification of exemption from the DCEO
- 1) The DCEO may certify a taxpayer with a project that meets the qualifications under paragraphs (1), (2), or (4) of subsection (c) of Section 110-20 of the MICRO Act (35 ILCS 45/110-20), subject to an agreement under the MICRO Act, for an exemption from any State or local use tax or retailers' occupation tax on building materials for the construction of its project facilities. The taxpayer

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must meet any criteria for certification set by the DCEO under the MICRO Act. [35 ILCS 45/110-105(a)]

2) Upon certification by the DCEO under Section 110-105 of the MICRO Act, the DCEO will notify the Department of Revenue of the certification. [35 ILCS 45/110-105(a)]

f) MICRO Illinois Building Materials Exemption Certificate from the Department of Revenue

1) Upon request from a person that has been certified by the DCEO under the MICRO Act, the Department shall issue a MICRO Illinois Building Materials Exemption Certificate for each construction contractor or other entity identified by the person so certified. The Department shall make the MICRO Illinois Building Materials Exemption Certificates available to each construction contractor or other entity as well as the person certified under the MICRO Act. [35 ILCS 120/5n]

2) Request for exemption certificates shall be submitted electronically and must contain the following information:

A) The name and address of the construction contractor or other entity;

B) The name and location or address of the building project site;

C) The estimated amount of the exemption for each construction contractor or other entity for which a request for an exemption certificate is made, based on a stated estimated average tax rate and the percentage of the contract that consists of materials;

D) The period of time over which supplies for the project are expected to be purchased; and

E) FEIN numbers of the contractor and entity, to determine if the contractor or other entity, or any partner, or a corporate officer, and in the case of a limited liability company, any

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manager or member, of the construction contractor or other entity, is or has been the owner, a partner, a corporate officer, and in the case of a limited liability company, a manager or member, of a person that is in default for moneys due to the Department under the ROTA or any other tax or fee Act administered by the Department. [35 ILCS 120/5n]

- 3) The Department shall issue the exemption certificates electronically and the certificates shall contain the following information:
  - A) Unique identifying number;
  - B) Name of entity to whom the exemption certificate is issued;
  - C) Expiration date which shall be no more than 5 years after the issuance date; and
  - D) Language that, if the construction contractor or other entity who is issued the exemption certificate makes a tax-exempt purchase, as described in Section 5n of the ROTA, that is not eligible for exemption under Section 5n of the ROTA or allows another person to make a tax-exempt purchase, as described in Section 5n of the ROTA, that is not eligible for exemption under Section 5n of the ROTA, then, in addition to any tax or other penalty imposed, the construction contractor or other entity is subject to a penalty equal to the tax that would have been paid by the retailer under the ROTA as well as any applicable local retailers' occupation tax on the purchase that is not eligible for the exemption. [35 ILCS 120/5n]
  
- 4) The Department shall issue the exemption certificate within 3 business days after receipt of request. This requirement does not apply in circumstances where the Department, for reasonable cause, is unable to issue the exemption certificate within 3 business days. [35 ILCS 120/5n] Examples of "reasonable cause" include, but are not limited to, receipt of a request lacking all the information required by 35 ILCS 120/5n, the receipt of a large number of

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requests for exemption certificates, or lack of sufficient staff to process the number of existing requests.

- 5) The exemption status shall take effect within 3 months after certification of the taxpayer and notice to the Department of Revenue by the DCEO. [35 ILCS 45/110-105(a)]
- 6) The exemption period shall not exceed 5 years. [35 ILCS 120/5n; 35 ILCS 45/110-105(a)]
- 7) The Department may refuse to issue an exemption certificate under Section 5n of the ROTA if the owner, any partner, or a corporate officer, and in the case of a limited liability company, any manager or member, of the construction contractor or other entity is or has been the owner, a partner, a corporate officer, and in the case of a limited liability company, a manager or member, of a person that is in default for moneys due to the Department under the ROTA or any other tax or fee Act administered by the Department. [35 ILCS 120/5n]
- 8) At the request of the entity to whom the exemption certificate is issued, the Department may renew an exemption certificate issued under Section 5n of the ROTA. [35 ILCS 120/5n]
- 9) After the Department issues exemption certificates under Section 5n of the ROTA, the certified entity may notify the Department of additional construction contractors or other entities eligible for an exemption certificate under Section 5n of the ROTA. Upon such a notification and subject to the other provisions of Section 5n of the ROTA, the Department shall issue an exemption certificate to each additional qualified construction contractor or other entity so identified. [35 ILCS 120/5n]
- 10) A certified entity may notify the Department to rescind an exemption certificate previously issued by the Department that has not yet expired. Upon such a notification and subject to the other provisions of Section 5n of the ROTA, the Department shall rescind the exemption certificate. [35 ILCS 120/5n]



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11) The request to issue, renew, or rescind an exemption certificate, or the request to add additional construction contractors or other entities, must be submitted to the Department by an employee, corporate officer, partner, limited liability company manager or member, or designated agent who cannot be a contractor or subcontractor, of the person or entity certified by the DCEO under the MICRO Act. The designation of agent must be made in writing to the Department by the corporate officer, partner, limited liability company manager or member of the person or entity certified by the DCEO under the MICRO Act.

g) Required documentation of sale

1) A construction contractor or other entity shall not make tax-free purchases unless it has an active exemption certificate issued by the Department at the time of purchase. [35 ILCS 120/5n]

2) In addition to any other requirements to document the exemption allowed under Section 5n of the ROTTA, the retailer must obtain the purchaser's exemption certificate number issued by the Department. [35 ILCS 120/5n]

3) The retailer must also obtain a certification from the purchaser that contains:

A) A statement that the building materials are being purchased for incorporation into real estate in a qualified facility;

B) The location or address of the real estate into which the building materials will be incorporated;

C) The name and address of the construction contractor or other entity;

D) A description of the building materials being purchased;

E) The purchaser's MICRO Illinois Building Materials Exemption Certificate number issued by the Department of Revenue; and

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- F) The purchaser's signature and date of purchase.
- 4) The retailer may comply with this subsection (g) certification requirement by securing from the purchaser a completed and signed Form EZ-1.
- h) Annual Reports
  - 1) For applicants issued a certificate of exemption under Section 110-105 of the MICRO Act, the report shall be the same as required for a High Impact Business under subsection (a-5) of Section 8.1 of the Illinois Enterprise Zone Act (20 ILCS 655/8.1(a-5)). [35 ILCS 45/30(f)]
    - A) Each contractor or other entity that has been issued a MICRO Illinois Building Materials Exemption Certificate under Section 5n of the ROTA shall annually report to the Department of Revenue the total value of the MICRO Illinois building materials exemption from State taxes.
    - B) Reports shall contain information reasonably required by the Department of Revenue to enable it to verify and calculate the total tax benefits for taxes imposed by the State and shall be broken down by MICRO Illinois Project site.
    - C) Reports are due no later than May 31 of each year and shall cover the previous calendar year.
  - 2) Suspension of Exemption Certificate for Failure to Report Data. A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) shall have the exemption certificate for which it failed to report suspended.
    - A) First Offense: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) shall have the exemption certificate suspended until the contractor or other entity complies with the reporting requirements.

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- B) Second Offense: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) for two reporting periods within a five-year period shall have all exemption certificates issued to it suspended until 30 days after the contractor or other entity complies with the reporting requirements.
  
  - C) Subsequent Offenses: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) for more than two reporting periods within a five-year period shall have all exemption certificates issued to it suspended until 180 days after the contractor or other entity complies with the reporting requirements.
- i) Unlawful Use of Exemption Certificate
- 1) *If the Department of Revenue determines that a construction contractor or other entity that was issued an exemption certificate under Section 5n of the ROTA made a tax-exempt purchase, as described in Section 5n of the ROTA, that was not eligible for exemption under Section 5n of the ROTA or allowed another person to make a tax-exempt purchase, as described in Section 5n of the ROTA, that was not eligible for exemption under Section 5n of the ROTA, then, in addition to any tax or other penalty imposed, the construction contractor or other entity is subject to a penalty equal to the tax that would have been paid by the retailer under the ROTA as well as any applicable local retailers' occupation tax on the purchase that was not eligible for the exemption. [35 ILCS 120/5n]*
  
  - 2) Suspension or Revocation of Exemption Certificate for Unlawful Use of Exemption Certificate. The Department shall suspend or revoke the exemption certificate of a contractor or other entity found to have used an exemption certificate in violation of 35 ILCS 120/5n as reflected in subsection (i)(1), as follows:
    - A) First Offense: In addition to all other penalties provided by law, a first offense shall result in the suspension of all exemption certificates issued to a contractor or other entity for 1 year.

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B) Second Offense: In addition to all other penalties provided by law, a second offense shall result in permanent revocation of all exemption certificates issued to the contractor or other entity.

j) Ineligibility and Protest Procedures

1) A contractor or other entity is not eligible to receive additional exemption certificates during the period that one or more exemption certificates issued to it are subject to suspension or revocation.

2) Any person aggrieved by any decision of the Department under subsections (h) and (i) may, within 20 days after notice of the decision, protest and request a hearing, whereupon the Department shall give notice to that person of the time and place fixed for a hearing, shall hold a hearing and then issue its final administrative decision in the matter to that person. In the absence of a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 130.1959 Sales of Building Materials to be Incorporated into a REV Illinois Project under the Reimagining Energy and Vehicles in Illinois Act**

a) Each retailer who makes a sale of building materials that will be incorporated into a REV Illinois Project for which a certificate of exemption has been issued by the Department of Commerce and Economic Opportunity ("DCEO") under Section 105 of the Reimagining Energy and Vehicles in Illinois Act (20 ILCS 686/105) ("REV Illinois Act"), may deduct receipts from those sales when calculating any State or local use and occupation taxes. [35 ILCS 120/5m] Such REV Illinois Projects include electric vehicle manufacturers, electric vehicle component parts manufacturers, or renewable energy manufacturers. See 20 ILCS 686/20(c)(1), (2), and (4) for more information on qualifications.

b) No retailer who is eligible for the deduction or credit under Section 5k of the Retailers' Occupation Tax Act ("ROTA") related to enterprise zones or

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Section 5l of the ROTA related to High Impact Businesses for a given sale shall be eligible for the deduction or credit authorized under Section 5m of the ROTA for that same sale. [35 ILCS 120/5m]

c) To qualify for the exemption, building materials must be incorporated into a REV Illinois Project. Examples of qualifying building materials include but are not limited to:

- 1) Common building materials such as lumber, bricks, cement, windows, doors, insulation, roofing materials, and sheet metal;
- 2) Plumbing systems and components such as bathtubs, lavatories, sinks, faucets, garbage disposals, water pumps, water heaters, water softeners, and water pipes;
- 3) Heating systems and components such as furnaces, ductwork, vents, stokers, boilers, heating pipes, and radiators;
- 4) Electrical systems and components such as wiring, outlets, and light fixtures that are incorporated into a REV Illinois Project;
- 5) Central air conditioning systems, ventilation systems, and components that are incorporated into a REV Illinois Project;
- 6) Built-in cabinets and other woodwork that are incorporated into a REV Illinois Project;
- 7) Built-in appliances such as refrigerators, stoves, ovens, and trash compactors that are incorporated into a REV Illinois Project; and
- 8) Floor coverings such as tile, linoleum, and carpeting that are glued or otherwise incorporated into a REV Illinois Project by use of tacks, staples, or wood stripping filled with nails that protrude upward also known as tacking strips or tack-down strips.

d) Building materials that are not incorporated into a REV Illinois Project and thus do not qualify for the exemption include but are not limited to:

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- 1) Tools, machinery, equipment, fuel, forms, and other items that may be used by a construction contractor at a REV Illinois Project, but that are not incorporated into a REV Illinois Project;
  - 2) Free-standing appliances such as stoves, ovens, refrigerators, washing machines, portable ventilation units, window air conditioning units, lamps, clothes washers, clothes dryers, trash compactors, and dishwashers that may be connected to and operate from a building's electrical or plumbing system but that do not become a component of those systems; and
  - 3) Floor coverings that are area rugs or that are attached to the structure using only two-sided tape.
- e) Certification of exemption from the DCEO
- 1) *The DCEO may certify a Taxpayer with a REV Illinois Project that meets the qualifications under paragraphs (1), (2), or (4) of subsection (c) of Section 20 of the REV Illinois Act, subject to an agreement under the REV Illinois Act, for an exemption from any State or local use tax or retailers' occupation tax on building materials for the construction of its project facilities. The taxpayer must meet any criteria for certification set by the DCEO under the REV Illinois Act. [20 ILCS 686/105]*
  - 2) *Upon certification by the DCEO under Section 105 of the REV Illinois Act, the DCEO will notify the Department of Revenue of the certification. [20 ILCS 686/105]*
- f) REV Illinois Building Materials Exemption Certificate from the Department of Revenue
- 1) *Upon request from the certified manufacturer, the Department shall issue a REV Illinois Building Materials Exemption Certificate for each construction contractor or other entity identified by the certified manufacturer. The Department shall make the REV Illinois Building Materials Exemption Certificates available to each construction contractor or other entity identified by the certified manufacturer and to the certified manufacturer. [35 ILCS 120/5m]*

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- 2) Request for exemption certificates shall be submitted electronically and must contain the following information:
- A) *The name and address of the construction contractor or other entity;*
  - B) *The name and location or address of the building project site;*
  - C) *The estimated amount of the exemption for each construction contractor or other entity for which a request for a REV Illinois Building Materials Exemption Certificate is made, based on a stated estimated average tax rate and the percentage of the contract that consists of materials;*
  - D) *The period of time over which supplies for the project are expected to be purchased; and*
  - E) *FEIN numbers of the contractor and entity, to determine if the contractor or other entity, or any partner, or a corporate officer, and in the case of a limited liability company, any manager or member, of the construction contractor or other entity, is or has been the owner, a partner, a corporate officer, and in the case of a limited liability company, a manager or member, of a person that is in default for moneys due to the Department under the ROTA or any other tax or fee Act administered by the Department. [35 ILCS 120/5m]*
- 3) The Department shall issue the exemption certificates electronically and the certificates shall contain the following information:
- A) *Unique identifying number;*
  - B) *Name of the REV Illinois project site and the construction contractor or other entity to whom the exemption certificate is issued;*
  - C) *Expiration date which shall be no more than 5 years after the issuance date; and*

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- D) *Language stating that if the construction contractor or other entity who is issued the Exemption Certificate makes a tax-exempt purchase, as described in Section 5m of the ROTA, that is not eligible for exemption under Section 5m of the ROTA or allows another person to make a tax-exempt purchase, as described in Section 5m of the ROTA, that is not eligible for exemption under Section 5m of the ROTA, then, in addition to any tax or other penalty imposed, the construction contractor or other entity is subject to a penalty equal to the tax that would have been paid by the retailer under the ROTA as well as any applicable local retailers' occupation tax on the purchase that is not eligible for the exemption. [35 ILCS 120/5m]*
- 4) *The Department shall issue the REV Illinois Building Materials Exemption Certificates within 3 business days after receipt of the request from the certified manufacturer. This requirement does not apply in circumstances where the Department, for reasonable cause, is unable to issue the Exemption Certificate within 3 business days. [35 ILCS 120/5m] Examples of "reasonable cause" include, but are not limited to, receipt of a request lacking all the information required by 35 ILCS 120/5m, the receipt of a large number of requests for exemption certificates, or lack of sufficient staff to process the number of existing requests.*
- 5) *The exemption status shall take effect within 3 months after certification of the taxpayer and notice to the Department of Revenue by the DCEO. [20 ILCS 686/105(a)]*
- 6) *The exemption period shall not exceed 5 years. [35 ILCS 120/5m; 20 ILCS 686/105(a)]*
- 7) *The Department may refuse to issue a REV Illinois Building Materials Exemption Certificate if the owner, any partner, or a corporate officer, and in the case of a limited liability company, any manager or member, of the construction contractor or other entity is or has been the owner, a partner, a corporate officer, and in the case of a limited liability company, a manager or member, of a person that is in default for moneys due to the Department under*



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the ROTA or any other tax or fee Act administered by the Department. [35 ILCS 120/5m]

- 8) At the request of the certified manufacturer, the Department may renew a REV Illinois Building Materials Exemption Certificate. [35 ILCS 120/5m]
- 9) After the Department issues Exemption Certificates for a given REV Illinois project site, the certified manufacturer may notify the Department of additional construction contractors or other entities that are eligible for a REV Illinois Building Materials Exemption Certificate. Upon receiving such a notification and subject to the other provisions of Section 5m of the ROTA, the Department shall issue a REV Illinois Building Materials Exemption Certificate to each additional construction contractor or other entity so identified. [35 ILCS 120/5m]
- 10) A certified manufacturer may ask the Department to rescind a REV Illinois Building Materials Exemption Certificate previously issued by the Department to a construction contractor or other entity working at that certified manufacturer's REV Illinois project site if that REV Illinois Building Materials Exemption Certificate has not yet expired. Upon receiving such a request and subject to the other provisions of Section 5m of ROTA, the Department shall issue the rescission of the REV Illinois Building Materials Exemption Certificate to the construction contractor or other entity identified by the certified manufacturer and provide a copy of the rescission to the construction contractor or other entity and to the certified manufacturer. [35 ILCS 120/5m]
- 11) The request to issue, renew, or rescind an exemption certificate, or the request to add additional construction contractors or other entities, must be submitted to the Department by an employee, corporate officer, partner, limited liability company manager or member, or designated agent who cannot be a contractor or subcontractor, of the certified manufacturer under the REV Illinois Act. The designation of agent must be made in writing to the Department by the corporate officer, partner, limited liability company manager or member of the certified manufacturer under the REV Illinois Act.

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- g) Required documentation of sale
- 1) *A construction contractor or other entity shall not make tax-free purchases under Section 5m of the ROTA unless it has an active REV Illinois Building Materials Exemption Certificate issued by the Department of Revenue at the time of purchase. [35 ILCS 120/5m]*
  - 2) *In addition to any other requirements to document the exemption allowed under Section 5m of the ROTA, the retailer must obtain the purchaser's REV Illinois Building Materials Exemption Certificate number issued by the Department. [35 ILCS 120/5m]*
  - 3) The retailer must also obtain a certification from the purchaser that contains:
    - A) *A statement that the building materials are being purchased for incorporation into a REV Illinois Project;*
    - B) *The location or address of the REV Illinois Project into which the building materials will be incorporated;*
    - C) *The name and address of the construction contractor or other entity;*
    - D) *A description of the building materials being purchased;*
    - E) *The purchaser's REV Illinois Building Materials Exemption Certificate number issued by the Department of Revenue; and*
    - F) *The purchaser's signature and date of purchase.*
  - 4) *The retailer may comply with this subsection (g) certification requirement by securing from the purchaser a completed and signed Form EZ-1.*
- h) Annual Reports

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- 1) For applicants issued a certificate of exemption under Section 105 of the REV Illinois Act, the report shall be the same as required for a High Impact Business under subsection (a-5) of Section 8.1 of the Illinois Enterprise Zone Act (20 ILCS 655/8.1(a-5)). [20 ILCS 686/30(f)]
  - A) Each contractor or other entity that has been issued a REV Illinois Building Materials Exemption Certificate under Section 5m of the ROTA shall annually report to the Department of Revenue the total value of the REV Illinois building materials exemption from State taxes.
  - B) Reports shall contain information reasonably required by the Department of Revenue to enable it to verify and calculate the total tax benefits for taxes imposed by the State and shall be broken down by REV Illinois Project site.
  - C) Reports are due no later than May 31 of each year and shall cover the previous calendar year.
  
- 2) Suspension of Exemption Certificate for Failure to Report Data. A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) shall have the exemption certificate for which it failed to report suspended.
  - A) First Offense: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) shall have the exemption certificate suspended until the contractor or other entity complies with the reporting requirements.
  - B) Second Offense: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) for two reporting periods within a five-year period shall have all exemption certificates issued to it suspended until 30 days after the contractor or other entity complies with the reporting requirements.

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- C) Subsequent Offenses: A contractor or other entity that fails to comply with the reporting requirements or deadlines provided in subsection (h)(1) for more than two reporting periods within a five-year period shall have all exemption certificates issued to it suspended until 180 days after the contractor or other entity complies with the reporting requirements.
- i) Unlawful Use of Exemption Certificate
- 1) If the Department of Revenue determines that a construction contractor or other entity that was issued an Exemption Certificate under Section 5m of the ROTA made a tax-exempt purchase, as described in Section 5m of the ROTA, that was not eligible for exemption under Section 5m of the ROTA or allowed another person to make a tax-exempt purchase, as described in Section 5m of the ROTA, that was not eligible for exemption under Section 5m of the ROTA, then, in addition to any tax or other penalty imposed, the construction contractor or other entity is subject to a penalty equal to the tax that would have been paid by the retailer under the ROTA as well as any applicable local retailers' occupation tax on the purchase that was not eligible for the exemption. [35 ILCS 120/5m]
- 2) Suspension or Revocation of Exemption Certificate for Unlawful Use of Exemption Certificate. The Department shall suspend or revoke the exemption certificate of a contractor or other entity found to have used an exemption certificate in violation of 35 ILCS 120/5m as reflected in subsection (i)(1), as follows:
- A) First Offense: In addition to all other penalties provided by law, a first offense shall result in the suspension of all exemption certificates issued to a contractor or other entity for 1 year.
- B) Second Offense: In addition to all other penalties provided by law, a second offense shall result in permanent revocation of all exemption certificates issued to the contractor or other entity.

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- j) Ineligibility and Protest Procedures
- 1) A contractor or other entity is not eligible to receive additional exemption certificates during the period that one or more exemption certificates issued to it are subject to suspension or revocation.
  - 2) Any person aggrieved by any decision of the Department under subsections (h) and (i) may, within 20 days after notice of the decision, protest and request a hearing, whereupon the Department shall give notice to that person of the time and place fixed for a hearing, shall hold a hearing and then issue its final administrative decision in the matter to that person. In the absence of a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)