



Illinois Department of Revenue

Legal Services Office
101 W. Jefferson St. MC 5-500
Springfield, IL 62794

SECOND NOTICE OF PROPOSED RULEMAKING

- 1) Agency: Illinois Department of Revenue
- 2) Title and Ill. Adm. Code Citation of Proposed Rulemaking: Retailers' Occupation Tax, 86 Ill. Adm. Code 130.
- 3) Date, Issue, and page number of the Illinois Register in which the First Notice was published: 48 Ill. Reg. 8276; June 7, 2024
- 4) Text and Location of any Changes Made to the Proposed Rulemaking During the First Notice Period: None.
- 5) Final Regulatory Flexibility Analysis:
 - A. Summary of the issues raised by affected small businesses during the First Notice Period: Small business did not raise any issues during the First Notice Period.
 - B. Description of actions taken on any alternatives to the proposed rule suggested by small businesses during the First Notice Period, including reasons for rejecting alternatives not utilized: Not applicable.
- 6) Analysis of the Economic and Budgetary Effects of the Proposed Rulemaking: See attached.
- 7) Response to Recommendations Made by the Administrative Code Division for Changes in the Rule to Make it Comply with the Codification Scheme: All changes requested by the Administrative Code Division have been made.
- 8) Evaluation of the comments received by the agency from interested persons during the first notice period (but not including any questions raised by the Joint Committee in a preliminary review) including:
 - A. Date of any public hearing held during the first notice period. Name of the person or group requesting a hearing: Public hearing was not requested.
 - B. The names and addresses of all individuals or groups making comments or requesting the opportunity to make comments: Comments were not submitted.

- C. A list of all specific criticisms and suggestions raised in the comments:
Not applicable.
 - D. The agency's evaluation of each of the specific criticisms and suggestions:
Not applicable.
 - E. A statement that the agency has considered all comments received during the first notice period: Not applicable.
- 9) An analysis of the expected effects of the proposed rulemaking, including:
- A. Impact on the public: 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 implements 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 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. New Section 130.1959 implements 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.
 - B. Changes in the agency's programs or structure resulting from implementation of the rulemaking: Changes to operating procedures of the program areas tasked with administering the areas affected by the statutory developments needed to be made to accommodate the statutory developments. For instance, the Department of Revenue already administers statutory tax exemptions from other tax incentive programs such as Enterprise Zones and High Impact Businesses through a common database, online portal and EZ-1 form which needed small adjustments to implement the MICRO Act and REV Illinois Act building materials exemptions. Staff procedures for processing of the requests for the MICRO and REV Illinois building materials exemption certificates submitted through the online portal needed to be created.
 - C. Impact of proposed rule on small businesses. Methods used by Agency to

comply with 5 ILCS 100/5-30, including reasons for rejecting any methods not utilized: 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. Small businesses that qualify for certification under the MICRO Act and REV Illinois Act are impacted in that they may be able to purchase building materials tax free. The Department is currently administering these exemptions as required by statute, and therefore, the methods described in 5 ILCS 100/30 are not legal or feasible in meeting the requirements of the Retailers' Occupation Tax Act. The Department published the proposed rulemaking in the Illinois Register and on the Department's website.

- 10) A justification and rationale for the proposed rulemaking, including:
- A. Any changes in statutory language requiring the proposed rulemaking: 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 implements the statutory exemption under Section 5n of the Retailers' Occupation Tax Act, 35 ILCS 120/5n. New Section 130.1959 implements the statutory exemption under Section 5m of the Retailers' Occupation Tax Act, 35 ILCS 120/5m.
 - B. Any changes in agency policy, procedures, or structure requiring the proposed rulemaking: None.
 - C. Relationship to any relevant federal rules, regulations, or funding requirements: None
 - D. Court orders or rulings which are related to the rulemaking: None
 - E. A complete explanation of any other reasons for the proposed rulemaking: No other reasons exist.
- 11) Does this rulemaking include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act? No.

Agency Personnel Who Will Respond to Joint Committee Questions Regarding the Proposed Rulemaking:

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Second Notice of Proposed Rulemaking

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