

**Illinois Department of Revenue  
Regulations**

<b>Title 86 Part 130 Section 130.1947 Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses</b>
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**TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 130  
RETAILERS' OCCUPATION TAX**

**Section 130.1947 Tangible Personal Property Used or Consumed in the Process of Manufacturing and Assembly within Enterprise Zones or by High Impact Businesses**

- a) Section 1d of the Retailers' Occupation Tax Act provides an exemption for *tangible personal property to be used or consumed by a business entity within an enterprise zone established pursuant to the Illinois Enterprise Zone Act or used or consumed by a High Impact Business, in the process of the manufacturing or assembly of tangible personal property for wholesale or retail sale or lease, if used or consumed by a business certified by the Department of Commerce and Economic Opportunity (DCEO) [35 ILCS 120/1d]*.
  
- b) Tangible Personal Property Used or Consumed in the Process of Manufacturing or Assembling within an Enterprise Zone  
To qualify for the exemption, a business located in an enterprise zone must meet the following requirements contained in Section 1f of the Retailers' Occupation Tax Act:
  - 1) *be located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act;*
  
  - 2) *make investments that:*
    - A) *cause the creation of a minimum of 200 full-time equivalent jobs in Illinois;*  
*or*
  
    - B) *make investments that cause the retention of a minimum of 2,000 full-time jobs in Illinois; or*
  
    - C) *total a minimum of \$40,000,000 and retain at least 90% of the jobs in place on the date on which the exemption is granted and for the duration of the exemption; and*
  
  - 3) *be certified by DCEO as complying with the requirements specified in this subsection (b) [35 ILCS 120/1f]*
  
- c) Tangible Personal Property Used or Consumed in the Process of Manufacturing or Assembling by a High Impact Business  
To qualify for the exemption as a High Impact Business, the business must not be located within an enterprise zone at the time of its designation and must meet the

following requirements contained in Section 5.5(a)(3)(A) of the Illinois Enterprise Zone Act [20 ILCS 655]:

- 1) *the business intends to make a minimum investment of:*
  - A) *\$12,000,000 that will be placed in service in qualified property and intends to create 500 full-time equivalent jobs at a designated location in Illinois; or*
  - B) *\$30,000,000 that will be placed in service in qualified property and intends to retain 1,500 full-time jobs at a designated location in Illinois;*
- 2) *the business certifies in writing that the investments would not be placed in service in qualified property and the job creation or job retention would not occur without the tax credits and exemptions set forth in Section 5.5(b) of the Illinois Enterprise Zone Act. The terms "placed in service" and "qualified property" have the same meanings as described in Section 201(h) of the Illinois Income Tax Act [20 ILCS 655/5.5(a)(3)(A)];*
- 3) is certified by DCEO as complying with the requirements specified in this subsection (c);
- 4) for purposes of this subsection (c):
  - A) *the exemption is not authorized until the minimum investments set forth in subsection (c)(1) or (c)(2) have been placed in service in qualified properties and the minimum full-time equivalent jobs or full-time retained jobs set forth in subsection (c)(1) or (c)(2) have been created or retained [20 ILCS 655/5.5(b)];*
  - B) *the terms "placed in service" and "qualified property" have the same meaning as described in Section 201 (h) of the Illinois Income Tax Act [20 ILCS 655].*
- d) Businesses seeking certificates of eligibility must *make application to DCEO* on application forms provided by DCEO [35 ILCS 120/1f]. The Illinois Department of Revenue does not certify business enterprises as eligible for this exemption.
- e) Once a business is certified to qualify for the exemption, the tangible personal property must be used or consumed within the enterprise zone or at the certified location of the High Impact Business in the process of manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. Sales of tangible personal property used or consumed in activities that do not constitute manufacturing or assembling remain subject to the tax. For purposes of this Section, "manufacturing" and "assembling" shall have the same meaning ascribed to those terms in Section 130.330(b)(2) through (9).
- f) *The exemption includes repair and replacement parts for machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. [35 ILCS 120/1d] The exemption also includes equipment, manufacturing fuels, material and supplies for the maintenance, repair or*

*operation of the manufacturing or assembling machinery or equipment. [35 ILCS 120/1n]*

- g) Examples of items that qualify for the exemption are:
- 1) machinery and equipment that would otherwise qualify under the manufacturing machinery and equipment exemption because it is used in the activities set forth in Section 130.330(d)(3), and repair and replacement parts for that machinery and equipment;
  - 2) hand tools used in the activities set forth in Section 130.330(d)(3);
  - 3) materials and supplies, such as abrasives, acids, polishing compounds or lubricants used or consumed in the activities set forth in Section 130.330(d)(3);
  - 4) machinery and equipment and hand tools used to maintain, repair or operate machinery and equipment that qualifies for the manufacturing machinery and equipment exemption set forth in Section 130.330;
  - 5) materials and supplies, such as lubricants, coolants, adhesives, solvents or cleaning compounds used to maintain, repair or operate machinery or equipment that qualifies for the manufacturing machinery and equipment exemption set forth in Section 130.330;
  - 6) any fuel, such as coal, diesel oil, gasoline, natural gas, artificial gas or steam that would be subject to Retailers' Occupation Tax or Use Tax liability when sold at retail is exempt from those taxes when sold for use as fuel for machinery and equipment that qualifies for the manufacturing machinery and equipment exemption set forth in Section 130.330; and
  - 7) protective clothing and safety equipment such as gloves, coveralls, aprons, goggles, safety glasses, face masks and air filter masks used when maintaining, repairing or operating machinery and equipment that qualifies for the manufacturing machinery and equipment exemption set forth in Section 130.330.
- h) The tangible personal property must be used primarily in manufacturing or assembling. Therefore, tangible personal property that is used primarily in an exempt process and partially in a nonexempt manner would qualify for exemption. However, the purchaser must be able to establish through adequate records that the tangible personal property is used over 50 percent in an exempt manner in order to claim the exemption.
- i) *The exemption provided in this Section for tangible personal property to be used or consumed in the process of manufacturing or assembly of tangible personal property for wholesale or retail sale or lease, and the repair and replacement parts for that machinery and equipment, does not apply to such property used or consumed in the generation of electricity for wholesale or retail sale; the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions set forth in this subsection were implemented by Public Act 98-0583, which stated that the provisions are declaratory of existing law as to the meaning and scope of this exemption. [35 ILCS 120/1d]*

- j) The exemption does not extend to tangible personal property that is not used or consumed in the manufacturing or assembling process itself. This is true even though the item is used in an activity that is essential to manufacturing or assembling. For example, the exemption does not extend to:
- 1) tangible personal property used or consumed in general production plant maintenance activities or in the maintenance of machinery and equipment that would not qualify for the manufacturing machinery and equipment exemption;
  - 2) tangible personal property used or consumed in research and development of new products, production techniques or production machinery;
  - 3) tangible personal property used to store, convey, handle or transport materials, parts or subassemblies prior to their entrance into the production cycle;
  - 4) tangible personal property used to store, convey, handle or transport finished articles after completion of the production cycle;
  - 5) tangible personal property used to transport work-in-process or finished articles between production plants;
  - 6) tangible personal property used or consumed in managerial, sales or other nonproduction, nonoperational activities, such as disposal of waste, scrap or residue, inventory control, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, product exhibition and promotion, or personnel recruitment, selection or training;
  - 7) tangible personal property used or consumed as general production plant safety equipment;
  - 8) tangible personal property and fuel used or consumed in general production plant ventilation, heating, cooling, climate control or illumination, not required by a manufacturing or assembling process;
  - 9) tangible personal property used or consumed in the preparation of food and beverages by a retailer for retail sale, such as restaurants, vending machines and food service establishments;
  - 10) fuel used or consumed in the operation of any machinery or equipment that would not qualify for exemption under the manufacturing machinery and equipment exemption set out in Section 130.330;
  - 11) building materials that become physically incorporated into foundations or housings for machinery and equipment; the building materials may qualify for exemption under the provisions of Section 130.1951 if all requirements set out in that Section are met; and
  - 12) building materials dedicated to general construction purposes at a production plant; the building materials may qualify for exemption under the provisions of Section 130.1951 if all the requirements of that Section are met.

- k) This exemption from Illinois Retailers' Occupation Tax is available to all retailers registered to collect or remit Illinois tax. It is not restricted to retailers located in jurisdictions that have established enterprise zones.
- l) The tangible personal property resulting from the process of manufacturing or assembling must be for wholesale or retail sale or lease. For purposes of this Section, see Section 130.330(e) for requirements relating to sale or lease of the tangible personal property produced in the process of manufacturing or assembling.
- m) If a certified business (or its lessor) purchases tangible personal property that is to be used in the process of manufacturing and assembly, then the certified business (or its lessor) must certify that fact to the retailer in writing in order to relieve the retailer of the duty of collecting and remitting tax. However, the purchaser who certifies that the item is being purchased for a qualifying use within an enterprise zone by a certified business will be held liable for the tax by the Department if it is found that the item was not so used.
- n) Documentation of Exemption
  - 1) When a certified business (or the lessor to a certified business) initially purchases qualifying items from an Illinois registered retailer, the retailer must be provided with:
    - A) a copy of the current certificate of eligibility issued by DCEO; and
    - B) a written certification signed by the certified business (or its lessor) that the items being purchased will be used or consumed (or leased for use or consumption) in a manufacturing or assembling process at a location in an enterprise zone established pursuant to the Illinois Enterprise Zone Act or by a High Impact Business.
  - 2) If a copy of a certified business' current certificate of eligibility and certification are maintained by a retailer, the certified business (or its lessor) may claim the exemption on subsequent purchases from that retailer by indicating on the face of purchase orders that the transaction is exempt by making reference to the certificate of eligibility and certification. This procedure on subsequent purchases is authorized as long as the certificate of eligibility remains valid. The exemption can only be claimed for purchases made during the effective period of the certificate of eligibility specified by DCEO on the face of the certificate of eligibility.
  - 3) The retailer must receive a certificate of eligibility and the purchaser's written certificate to relieve the retailer of the duty of collecting and remitting tax on a sale.
  - 4) An item that initially is used primarily in a qualifying manner at a qualifying location but that is converted to a nonexempt use or is moved to a nonqualified location will become subject to tax at the time of its conversion based on the lesser of the purchase price or fair market value of the item at the time of conversion.

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