



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, Community Development Director

DATE: March 20, 2003

SUBJECT: **Addition to the Urbana Enterprise Zone Ordinance
Sales Tax Exemption Legislative Change**

Introduction

The Urbana Enterprise Zone was established in 1985 in cooperation with the State of Illinois in order to strive for a healthy economy, vibrant community, development, growth, continual encouragement, expansion, and investment to directly aid the local community and its residents (Ordinance No. 8485-38 and 20 ILCS 655). Certain incentives are available to businesses located within the Urbana Enterprise Zone that experience new construction, expansion, or rehabilitation, including tax credits, property tax abatements, and building materials sales tax exemptions.

During 2002, the Illinois General Assembly amended the policy for sales tax exemptions on building materials, thereby requiring each participating city to amend its local ordinance to reflect the change. Following is the updated information and supporting documents.

Background

Retailers who sell building materials to an Urbana business located within an Enterprise Zone that is experiencing new construction, expansion, or rehabilitation are allowed to deduct the sales tax on such a purchase, as long as the building materials qualify. According to Public Act 92-0779 of the Illinois General Assembly, eligible building materials qualify when they are incorporated into the real estate of the business.

Previously, this exemption could only be taken by Urbana retailers for qualifying Urbana Enterprise Zone businesses. On August 6, 2002, the Illinois General Assembly approved an amendment that neither requires nor prohibits the purchase of building materials from any retailer or class of retailers in order to qualify. Thus, any retailer inside or outside of Urbana city limits may deduct sales tax from the purchase of building materials for an Urbana Enterprise Zone business that purchases qualifying building materials when involving new construction, expansion, or rehabilitation.

Staff procedures for adhering to the sales tax exemption policy remain the same, with only form changes: once a building permit has been issued for an Urbana Enterprise Zone business

experiencing new construction, expansion, or rehabilitation, the project manager may request sales tax exemption forms to present to retailers for the project. Building Safety staff automatically labels all building permits for businesses located within the Urbana Enterprise Zone with a stamp of “Urbana Enterprise Zone”, and print out as many building materials sales tax exemption forms as needed and requested by the project manager for each retailer. As specified by the state Enterprise Zone requirements, the form includes space to label the location of project, signature of Enterprise Zone administrator, and specification of eligibility for building material exemption.

A public hearing to review the legislative amendment was conducted on Tuesday, March 18 at 3:00 p.m. in the Urbana Civic Center, of which a transcript is attached. Other attachments include a draft ordinance, a copy of the General Assembly amendment, an Illinois Department of Revenue bulletin on the exemption change, and a sample building materials sales tax exemption form.

Economic Impact

The City of Urbana would see no loss in sales tax, since the tax was already being exempted. Building material retailers in Urbana may be impacted, however, in that the State’s requirement supersedes local ordinance.

Staff Recommendation

Staff recommends the Council approve the attached ordinance to amend the Urbana Enterprise Zone ordinance, at its regular meeting scheduled for Monday, April 7, 2003.

- Attachments: Draft Ordinance
Transcript of Public Hearing and Notice
State of Illinois 92nd General Assembly Public Act 92-0779
Illinois Department of Revenue Informational Bulletin
City of Urbana Building Materials Sales Tax Exemption Certificate

Prepared by: _____
Kathy A. Larson
Economic Development Specialist

- c. Council Packets
- Staff
- Ken Beth

Ordinance No. 2003-03-027

**AN ORDINANCE FURTHER AMENDING ORDINANCE NO. 8485-38 BY REVISING THE
APPLICABILITY OF THE EXEMPTION FROM THE RETAILERS' OCCUPATION TAX
FOR THE ENTERPRISE ZONE IN THE CITY OF URBANA, ILLINOIS**

WHEREAS, on December 3, 1984, the City Council (the "Corporate Authorities") of the City of Urbana, Champaign County, Illinois (the "City"), pursuant to and in accordance with the Illinois Enterprise Zone Act (Section 655/1 et seq. of Chapter 20 of the Illinois Compiled Statutes, the "Act"), duly passed and approved Ordinance No. 8485-38, entitled "An Ordinance Designating An Area As Enterprise Zone" (including as later supplemented and amended as described herein, the "Ordinance"); and

WHEREAS, in connection with a review of the Ordinance and the written application made in connection therewith to the Department of Commerce and Community Affairs (the "Department") in accordance with the Act, the Corporate Authorities, on March 18, 1985, duly passed and approved Ordinance No. 8485-65, entitled "An Ordinance Amending Ordinance No. 8485-38, entitled 'An Ordinance Designating An Area As Enterprise Zone' "; and

WHEREAS, approval of the Enterprise Zone as designated by the Ordinance, as so amended, was made by the Department by certification of the Ordinance as so amended effective July 1, 1985; and

WHEREAS, the Corporate Authorities have, from time to time, further amended the Ordinance to provide for the addition of additional territory to the Enterprise Zone and other related matters, and certification of such amendments to the Ordinance has been or will be made by the Department; and

WHEREAS, the Corporate Authorities now find it necessary and desirable to further amend the terms of the Ordinance, as heretofore supplemented and amended, pursuant to Section 5.4 of the Act; and

WHEREAS, on Sunday, March 9, 2003, the City duly caused public notice to be published in *The News-Gazette*, a newspaper of general circulation within the certified Enterprise Zone, as amended, of a public hearing to be conducted within the certified Enterprise Zone, as amended, on whether the Ordinance, as supplemented and amended, should be further supplemented and amended to apply the exemption from the Retailers' Occupation Tax to sales by each retailer in Illinois of building materials to be incorporated into real estate in the Enterprise Zone. Such public notice was published not more than twenty (20) days nor less than five (5) days before the public hearing scheduled and noticed for Tuesday, March 18, 2003, at 6:00 p.m.; and

WHEREAS, on Tuesday, March 18, 2003, the Corporate Authorities of the City duly conducted a public hearing at 3:00 p.m. in the Urbana Civic Center, 108 E. Water Street, Urbana, Illinois, a location within the certified Enterprise Zone, as amended and certified by the Department, at which such public hearing information was presented and public comment was elicited on the proposed amendment to the Ordinance for the Enterprise Zone, as specified in the notice as published.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS, as follows:

Section 1. That part B, entitled "Municipal Retailers' Occupation Tax" of Section 4, entitled "Tax Incentives", of the Ordinance, as supplemented and amended, be and the same is hereby further supplemented and amended to provide as follows:

B. Retailers' Occupation Tax. Each retailer in Illinois who makes a sale of building materials to be incorporated into real estate in the Enterprise Zone, as supplemented and amended, by remodeling, rehabilitation or new construction, may deduct receipts from such sales when calculating the tax imposed by the State of Illinois under and pursuant to Retailers' Occupation Tax Act (35 ILCS 120/1 et seq.) and by the City under and pursuant to an ordinance adopted in accordance with the Home Rule Municipal Retailers' Occupation Tax Act (65 ILCS 5/8-11-1). The deduction allowed hereby shall be limited to and shall only apply to any remodeling, rehabilitation or new construction of any commercial, industrial or manufacturing building or structure for which:

1. the City has issued a building or other permit required by any of the applicable codes or ordinances of the City; and
2. the Enterprise Zone Administrator of the City has issued a certificate of approval, a copy of which is required to be provided to the applicable retailer at the time of sale and maintained by such retailer in its books and records for the purposes of documenting any such deduction.

Section 2. Except as expressly amended hereby, all provisions of the Ordinance, as heretofore supplemented and amended, be and the same are hereby ratified, confirmed and approved.

Section 3. This Ordinance shall not become effective unless and until the proposed amendment contained herein is approved by the Department and the Department issues an amended certificate for the Enterprise Zone established by the Ordinance, as supplemented and amended, pursuant to the Act, in which such event this Ordinance shall become effective on the first day of the calendar month following the date in which such amended certificate, together with the Ordinance as heretofore and hereby further amended, shall be filed, recorded and transmitted as provided in Sections 5.3 and 5.4 of the Act.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a regular meeting of said Council on the _____ day of _____, A.D.

PASSED by the City Council this ____ day of _____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, ____.

Tod Satterthwaite, Mayor

ENTERPRISE ZONE PUBLIC HEARING
A Revision to the Applicability of the Exemption from the Retailer's Occupation Tax
Urbana Civic Center
Tuesday, March 18, 2003
3:00 p.m.

Attendees:

Mayor Tod Satterthwaite, Hearing Officer
Elizabeth H. Tyler, Community Development Director
Kathy Larson, Enterprise Zone Administrator
Ryan Brault, Redevelopment Specialist

Mayor Satterthwaite opened the public hearing 3:00 p.m. by reading the notice of public hearing and asking for public input (copy attached).

There was no public input.

Seeing no comment, Mayor Satterthwaite closed the public hearing.

Legal Notice

NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT the City of Urbana will conduct a public hearing on Tuesday, March 18, 2003 at 3:00 p.m. in the Urbana Civic Center, 108 E. Water Street, Urbana, Illinois, regarding the adoption of an ordinance to further amend Ordinance No. 8485-38 by revising the applicability of the exemption from the retailers' occupation tax for the Enterprise Zone in the City of Urbana, Illinois. The proposed amendment is pursuant to an amendment of Section 5k of the Retailers' Occupation Tax Act approved by the State of Illinois 92nd General Assembly. The proposed Ordinance would allow for the exemption from the Retailers' Occupation Tax to sales by each retailer in Illinois of building materials to be incorporated into real estate in the Urbana Enterprise Zone. Previously, this exemption applied only for retailers located in the corporate limits of the city in which the construction was proposed.

All interested citizens are invited to attend and to express their opinions. Persons unable to attend the hearing and wishing to comment may send written comments to:

Elizabeth H. Tyler, Director
Community Development Services Department
City of Urbana
400 S. Vine Street
P.O. Box 946
Urbana, IL 61801-0946
Ph 384-2439

Persons with disabilities needing services or accommodations for this hearing should contact the Community Development Services Department at 384-2439 or the City of Urbana's Americans with Disabilities Act Coordinator at 384-2466 or TDY at 384-2447.

State of Illinois
Public Acts
92nd General Assembly

Public Act 92-0779

SB1760 Enrolled

LRB9215394SMdv

AN ACT concerning taxes.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Retailers' Occupation Tax Act is amended
by changing Section 5k as follows:

(35 ILCS 120/5k) (from Ch. 120, par. 444k)

Sec. 5k. Building materials exemption. Each retailer who makes a qualified sale of building materials to be incorporated into real estate in an enterprise zone established by a county or municipality under the Illinois Enterprise Zone Act by remodeling, rehabilitation or new construction, may deduct receipts from such sales when calculating the tax imposed by this Act. For purposes of this Section, "qualified sale" means a sale of building materials that will be incorporated into real estate as part of a building project for which a Certificate of Eligibility for Sales Tax Exemption has been issued by the administrator of the enterprise zone in which the building project is located. To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the Certificate of Eligibility for Sales Tax Exemption issued by the administrator of the enterprise zone into which the

building materials will be incorporated. The Certificate of Eligibility for Sales Tax Exemption must contain:

(1) a statement that the building project identified in the Certificate meets all the requirements for the building material exemption contained in the enterprise zone ordinance of the jurisdiction in which the building project is located;

(2) the location or address of the building project; and

(3) the signature of the administrator of the enterprise zone in which the building project is located.

In addition, the retailer must obtain certification from the purchaser that contains:

(1) a statement that the building materials are being purchased for incorporation into real estate located in an Illinois enterprise zone;

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

(3) the name of the enterprise zone in which that real estate is located;

(4) a description of the building materials being purchased; and

(5) the purchaser's signature and date of purchase.

The deduction allowed by this Section for the sale of building materials may be limited, to the extent authorized by ordinance, adopted after the effective date of this amendatory Act of 1992, by the municipality or county that created the enterprise zone into in which the building materials will be incorporated ~~retailer's place of business is located.~~ The ordinance, however, may neither require nor prohibit the purchase of building materials from any retailer or class of retailers in order to qualify for the exemption allowed under this Section. ~~The corporate authorities of any municipality or county that adopts an ordinance or resolution imposing or changing any limitation on the enterprise zone exemption for building materials shall transmit to the Department of Revenue on or not later than 5 days after~~

~~publication, as provided by law, a certified copy of the ordinance or resolution imposing or changing those limitations, whereupon the Department of Revenue shall proceed to administer and enforce those limitations effective the first day of the second calendar month next following date of receipt by the Department of the certified ordinance or resolution.~~ The provisions of this Section are exempt from Section 2-70.

(Source: P.A. 91-51, eff. 6-30-99; 91-954, eff. 1-1-02; 92-484, eff. 8-23-01.)

Section 90. The State Mandates Act is amended by adding Section 8.26 as follows:

(30 ILCS 805/8.26 new)

Sec. 8.26. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 92nd General Assembly.

(Source: P.A. 91-51, eff. 6-30-99; 91-954, eff. 1-1-02; 92-484, eff. 8-23-01.)

Section 99. Effective date. This Act takes effect upon becoming law.

Passed in the General Assembly May 29, 2002.

Approved August 06, 2002.

Effective August 06, 2002.



URBANA ENTERPRISE ZONE



Building Materials Sales Tax Exemption Certificate

IMPORTANT! PURCHASER MUST READ THE FOLLOWING:

The undersigned purchaser hereby declares that the building materials herein purchased will be incorporated exclusively into the permanent real estate located within the Urbana Enterprise Zone for the project authorized by the Building Permit and location below.

City Use Only

Building Permit No: _____

Authorization: _____

Date: _____

Address of Project where materials will be incorporated

Permanent Parcel Number

Amount of Purchase before Sales Tax

Sales Tax Exemption Amount

Signature of Purchaser

Date of Purchase

Print Name of Purchaser

Employer of Purchaser (Company Name)

Witnessed by:

Retail Owner or Employee Signature

Retail Business Name

Print Name of Owner or Employee

Retail Business Address

NOTICE TO RETAILERS: Retailers are hereby authorized to accept this certificate in lieu of all local and State of Illinois sales tax (State of Illinois Public Act 92-0779, Illinois Enterprise Zone, effective August 6, 2002), on purchase at retail of tangible personal property (building materials) applicable to the above referenced purchase. The sales tax covered hereunder shall be recorded as an exemption on the sales tax return (Form RR-1-A). Retailers should keep a copy of the invoice with this exemption certificate as part of their permanent records.

IMPORTANT: COPY OF BUILDING PERMIT STAMPED "URBANA ENTERPRISE ZONE" SHOULD BE SHOWN TO THE RETAILER AT TIME OF PURCHASE TO VERIFY PROJECT ELIGIBILITY FOR SALES TAX EXEMPTION. THIS FORM SHALL NOT BE REPRODUCED AND ADDITIONAL FORMS MAY BE OBTAINED FROM THE CITY OF URBANA COMMUNITY DEVELOPMENT DEPARTMENT, 400 SOUTH VINE STREET, URBANA, ILLINOIS (PHONE: 217/384-2444).

Form UEZ-STE-2003 # _____