

River Edge Redevelopment Zones
Tax Questions and Answer
June 2013

The Illinois River Edge Redevelopment Zone Act took effect July 12, 2006. A River Edge Redevelopment Zone is a specific area designated by the State of Illinois in cooperation with a local government to safely revive and redevelop environmentally-challenged properties that will stimulate economic revitalization and create jobs in Illinois.

The River Edge Redevelopment Zone Program is administered at the state level by the Illinois Department of Commerce and Economic Opportunity. For general information on the program, contact the Department at 217/785-6193. The hearing impaired may call 1 800/785-6055.

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RIVER EDGE REDEVELOPMENT ZONE TAX BENEFITS

The following summarizes the most often asked questions on the tax benefits offered through the River Edge Redevelopment Zone Program.

SALES TAX DEDUCTION

What is the sales tax deduction and what is the retailer's role? Each retailer who makes a qualified sale of building materials to be incorporated into real estate in a River Edge Redevelopment Zone established by a county or municipality under the Illinois River Edge Redevelopment Zone Act by remodeling, rehabilitation or new construction involving *commercial and industrial property* (residential projects are not eligible), 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 Illinois Department of Revenue (IDOR). 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 IDOR. Here is a link to the IDOR informational bulletin explaining the process for receiving a certificate:

<http://www.revenue.state.il.us/Publications/Bulletins/2013/FY-2013-16.pdf>

Do all retailers offer a point of sale exemption? No. Retailers are not required by law to participate. The purchaser must ask the retailer for cooperation on this incentive. Retailers have, however, demonstrated good cooperation throughout the history of this program, as this incentive permits them to give customers a "break" without cost to themselves.

What qualifies as "building materials" eligible for the sales tax deduction? Building materials that are eligible for the River Edge Redevelopment zone sales tax deduction include items that are permanently affixed to real property such as lumber, mortar, glued-down carpets, paint, wallpaper and similar affixed items.

INVESTMENT TAX CREDIT

What is the River Edge Redevelopment zone investment tax credit? The Illinois Income Tax Act 35 ILCS 5/201, as amended allows a .5 percent credit against the state income tax for investments in qualified property, which is placed in service in a River Edge Redevelopment zone. In addition the Illinois Income Tax Act allows an additional credit equal to 0.5% of the basis of qualified property placed in service during the taxable year in a River Edge Redevelopment Zone, provided such property is placed in service on or after July 1, 2006, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is 0.5% and the denominator of which is 1%, but shall not exceed 0.5%.

Who are qualifying taxpayers? The credit may be taken by corporations, trusts, estates, individuals, partners and Subchapter S shareholders who make investments in qualified property and who otherwise meet the terms and conditions established by statute.

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What is qualified property? "Qualified property" is property which:

Is tangible; whether new or used, including buildings and structural components of buildings;

Is acquired by purchase as defined in Internal Revenue Code (IRC) Section 179(d);

Is depreciable pursuant to IRC Section 167;

Has a useful life of four or more years as of the date placed in service in an River Edge Redevelopment zone;

Is used in the River Edge Redevelopment zone by that taxpayer;

Has not been previously used in Illinois in such a manner and by such a person as would qualify for the credit; and, is an improvement or addition made on or after the date the zone was designated to the extent that the improvement or addition is of a capital nature, which increases the adjusted basis of the property previously placed in service in a River Edge Redevelopment Zone and otherwise meets the requirements of qualified property.

What are examples of "qualified property"? Examples include buildings, structural components of buildings, elevators, materials tanks, boilers, and major computer installations. Examples of non-qualifying property are land, inventories, small personal computers, trademarks, typewriters, and other small, non-depreciable, or intangible assets.

What does "placed in service" mean? Qualified property is "placed in service" on the earlier of 1) the date the property is placed in a condition of readiness and availability for use, or 2) the date on which the depreciation period of that property begins. To qualify for the River Edge Redevelopment zone investment tax credit, the property must be placed in service on or after the date the zone was certified by the Department of Commerce and Economic Opportunity, and on or before the last day of the firm's taxable year.

What is "depreciable" property? Property must be depreciable pursuant to Internal Revenue Code Section 167. Depreciable property is used in the taxpayer's trade or business or held for the production of income (but not inventory), which is subject to wear and tear, exhaustion or obsolescence.

There are some types of assets that may not be depreciable, even though they are used in the taxpayer's business or trade or are held for the production of income. Good will and land are examples. Other examples of tangible property, which are not depreciable, are inventories, natural resources and currency.

Does "used" property qualify for the River Edge Redevelopment zone investment tax credit? Used property does not qualify if it was previously used in Illinois in such a manner and by such a person as would qualify for either the statewide investment tax credit or the River Edge Redevelopment zone investment tax credit.

Example: A corporation purchases a used pick-up truck for use in its manufacturing business in a River Edge Redevelopment Zone from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets the other requirements for the investment tax credit, it will not be disqualified because it was previously used in Illinois for a purpose, which did not qualify for the credit. However, had the corporation purchased the truck from an Illinois taxpayer in whose hands the truck qualified for the credit,

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the truck would not be qualified for the investment tax credit, even though the party from whom the truck was acquired had never received an investment tax credit for it.

What is the “basis” value of property? The "basis" value of property, for the purposes of this credit, is defined the same way it is defined for purposes of federal depreciation calculations. Essentially, the basis is the cost of the property, as well as related capital costs.

Does the River Edge Redevelopment zone investment tax credit carry forward? Yes. The credit is allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, the excess may be carried forward and applied to the tax liability of the five taxable years following the excess credit year. The credit must be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time is applied first.

REMEDIATION TAX CREDIT

River Edge Redevelopment Zone site remediation tax credit? The Illinois Income Tax Act 35 ILCS 5/201 (n), as amended allows a credit allowed against the tax imposed by subsections (a) and (b) and shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site in a River Edge Redevelopment Zone.

(i) For tax years ending on or after December 31, 2006, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site within a River Edge Redevelopment Zone for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. Determinations as to credit availability for purposes of this Section shall be made consistent with rules adopted by the Pollution Control Board pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward

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period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

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Illinois Historic Preservation Tax Credit Program

The Illinois Historic Preservation Tax Credit Program provides a state income-tax credit equal to 25% of a project's qualified expenditures to owners of certified historic structures located within River Edge Redevelopment Zones who undertake certified rehabilitations during the taxable year. The substantial rehabilitation investments will create jobs in Illinois, stimulate the economies of River Edge communities, and revitalize historic structures and neighborhoods. An awarded tax credit may not be sold or otherwise transferred to another person or entity. The Illinois Historic Preservation Tax Credit Program runs from January 1, 2012 to December 31, 2016.

INCOME TAX DEDUCTION FOR FINANCIAL INSTITUTIONS

The Illinois Income Tax Act 35 ILCS 5/203 provides that financial institutions in Illinois, such as banks and savings and loans, are eligible for a special deduction from their Illinois corporate income tax return.

Such institutions may deduct from their taxable income an amount equal to the interest received from a loan for development in a River Edge Redevelopment zone. This is limited to the interest earned on loans or portions of loans secured by property which is eligible for the River Edge Redevelopment zone investment tax credit, described on Page 2 of this publication. Please refer to the section on the investment tax credit for a definition of eligible property.

DIVIDEND DEDUCTION

What is the dividend deduction? The Illinois Income Tax Act 35 ILCS 5/203 provides that taxpayers may deduct from their taxable income an amount equal to those dividends, which were paid to them by a corporation, which conducts substantially all of its operations in a River Edge Redevelopment zone or zones.

Can dividends from companies like Commonwealth Edison be deducted? No. The firm must conduct substantially all of its operations within a zone or zones, and firms with locations throughout the state (such as Commonwealth Edison, GTE, Pioneer, AT&T, Sears, Occidental Petroleum, etc.) do not fit this definition.

Who is an eligible taxpayer? Individuals, corporations, partnerships, trusts and estates are eligible to take the dividend deduction on their Illinois income tax returns.

Which dividends may be subtracted? Only dividends paid on or after the date of zone certification or before the last day of your taxable year may be deducted.

Is there a list of companies doing substantially all their business in River Edge Redevelopment zones? No.
Corporations must be contacted directly to verify their eligibility.

CORPORATE CONTRIBUTION DEDUCTION

What is the corporate contribution deduction? The Illinois Income Tax Act 35 ILCS 5/203 provides that corporations may make donations to designated zone organizations for projects

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approved by the Illinois Department of Commerce and Economic Opportunity, and claim an income tax deduction at double the value of the contribution, to the extent that 1) the contribution qualifies as a charitable contribution under Section 170, Subsection (c) of the Internal Revenue Code; and 2) the Department approves the amount and type of contribution which may be claimed as a deduction.

What is a designated zone organization? Only an organization that meets the eligibility criteria set forth in the River Edge Redevelopment Zone Act, Including approval from the local government and the Illinois Department of Commerce and Economic Opportunity, is a designated zone organization. For a list of these groups, contact local zone administrators.

Who is an eligible taxpayer? Only corporations may deduct twice the amount of a cash or in-kind contribution made to a designated zone organization project.

What is an approved contribution? In order to deduct twice the amount of a contribution, the contribution must be approved by the Illinois Department of Commerce and Economic Opportunity and must be made to an approved designated zone organization.

TAX INCENTIVE ADMINISTRATION

Are tax incentives and other benefits offered on a case-by-case basis?

No. "Case-by-Case" is contrary to the intent of the River Edge Redevelopment Zone Act. Tax incentives must be offered uniformly and equitably by class. The local ordinance authorizing tax incentives, extends the incentives automatically through eligibility criteria, such as class of property (i.e., commercial and industrial) and formulas (i.e., percentages and number of years available).

ADDITIONAL INFORMATION

Where can income tax forms be obtained? Income tax forms can be downloaded from the Illinois Department of Revenue (IDOR) at <http://tax.illinois.gov/taxforms/index.htm>

To receive assistance from IDOR by phone, please call 1 800 732-8866 or 1 217 782-3336. Representatives are available Monday through Friday, 8 am - 5 pm. The TDD (telecommunication device for the deaf) number is 1 800 544-5304.

IDOR also has a Business Hot Line that helps meet the needs of businesses and tax professionals. The Business Hot Line is available at 1 217 524-4772, Monday through Friday, 8 am - 5 pm.