

20 ILCS 605/605-1025

Statutes current with legislation through P.A. 103-585 of the 2024 Regular Session of the 103rd General Assembly.

Illinois Compiled Statutes Annotated > Chapter 20 EXECUTIVE BRANCH (§§ 5/1-1 — 100-90) > DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY (§§ 605/46.19b — 605-1110) > Article 605. Department of Commerce and Economic Opportunity Law (§§ 605/605-1 — 605-1110)

20 ILCS 605/605-1025 Data center investment.

(a) The Department shall issue certificates of exemption from the Retailers' Occupation Tax Act [35 ILCS 120/1 et seq.], the Use Tax Act [35 ILCS 105/1 et seq.], the Service Use Tax Act [35 ILCS 110/1 et seq.], and the Service Occupation Tax Act [35 ILCS 115/1 et seq.], all locally-imposed retailers' occupation taxes administered and collected by the Department, the Chicago non-titled Use Tax, and a credit certification against the taxes imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act [35 ILCS 5/201] to qualifying Illinois data centers.

(b) For taxable years beginning on or after January 1, 2019, the Department shall award credits against the taxes imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act as provided in Section 229 of the Illinois Income Tax Act [35 ILCS 5/229].

(c) For purposes of this Section:

“Data center” means a facility: (1) whose primary services are the storage, management, and processing of digital data; and (2) that is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems, (ii) systems for monitoring and managing infrastructure performance, (iii) Internet-related equipment and services, (iv) data communications connections, (v) environmental controls, (vi) fire protection systems, and (vii) security systems and services.

“Qualifying Illinois data center” means a new or existing data center that:

(1) is located in the State of Illinois;

(2) in the case of an existing data center, made a capital investment of at least \$250,000,000 collectively by the data center operator and the tenants of the data center over the 60-month period immediately prior to January 1, 2020 or committed to make a capital investment of at least \$250,000,000 over a 60-month period commencing before January 1, 2020 and ending after January 1, 2020; or

- (3)** in the case of a new data center, or an existing data center making an upgrade, makes a capital investment of at least \$250,000,000 over a 60-month period beginning on or after January 1, 2020; and
- (4)** in the case of both existing and new data centers, results in the creation of at least 20 full-time or full-time equivalent new jobs over a period of 60 months by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center; those jobs must have a total compensation equal to or greater than 120% of the average wage paid to full-time employees in the county where the data center is located, as determined by the U.S. Bureau of Labor Statistics; and
- (5)** within two years after being placed in service, certifies to the Department that it is carbon neutral or has attained certification under one or more of the following green building standards:
 - (A)** BREEAM for New Construction or BREEAM In-Use;
 - (B)** ENERGY STAR;
 - (C)** Envision;
 - (D)** ISO 50001-energy management;
 - (E)** LEED for Building Design and Construction or LEED for Operations and Maintenance;
 - (F)** Green Globes for New Construction or Green Globes for Existing Buildings;
 - (G)** UL 3223; or
 - (H)** an equivalent program approved by the Department of Commerce and Economic Opportunity.

“Full-time equivalent job” means a job in which the new employee works for the owner, operator, contractor, or tenant of a data center or for a corporation under contract with the owner, operator or tenant of a data center at a rate of at least 35 hours per week. An owner, operator or tenant who employs labor or services at a specific site or facility under contract with another may declare one full-time, permanent job for every 1,820 man hours worked per year under that contract. Vacations, paid holidays, and sick time are included in this computation. Overtime is not considered a part of regular hours.

“Qualified tangible personal property” means: electrical systems and equipment; climate control and chilling equipment and systems; mechanical systems and equipment; monitoring and secure systems; emergency generators; hardware; computers; servers; data storage devices; network connectivity equipment; racks; cabinets; telecommunications cabling infrastructure; raised floor systems; peripheral components or systems; software; mechanical, electrical, or plumbing systems; battery systems; cooling systems and towers; temperature control systems; other cabling; and other data center infrastructure equipment and systems necessary to operate qualified tangible personal property, including fixtures; and component parts of any of the foregoing, including installation, maintenance, repair, refurbishment, and replacement of qualified tangible personal property to generate, transform, transmit, distribute, or manage electricity necessary to operate qualified tangible personal property; and all other tangible personal property that is essential to the operations

of a computer data center. “Qualified tangible personal property” also includes building materials physically incorporated in to the qualifying data center.

To document the exemption allowed under this Section, the retailer must obtain from the purchaser a copy of the certificate of eligibility issued by the Department.

(d) New and existing data centers seeking a certificate of exemption for new or existing facilities shall apply to the Department in the manner specified by the Department. The Department shall determine the duration of the certificate of exemption awarded under this Act. The duration of the certificate of exemption may not exceed 20 calendar years. The Department and any data center seeking the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding that at a minimum provides:

- (1)** the details for determining the amount of capital investment to be made;
- (2)** the number of new jobs created;
- (3)** the timeline for achieving the capital investment and new job goals;
- (4)** the repayment obligation should those goals not be achieved and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption will be required;
- (5)** the duration of the exemption; and
- (6)** other provisions as deemed necessary by the Department.

(e) Beginning July 1, 2021, and each year thereafter, the Department shall annually report to the Governor and the General Assembly on the outcomes and effectiveness of Public Act 101-31 that shall include the following:

- (1)** the name of each recipient business;
- (2)** the location of the project;
- (3)** the estimated value of the credit;
- (4)** the number of new jobs and, if applicable, retained jobs pledged as a result of the project; and
- (5)** whether or not the project is located in an underserved area.

(f) New and existing data centers seeking a certificate of exemption related to the rehabilitation or construction of data centers in the State shall require the contractor and all subcontractors to comply with the requirements of Section 30-22 of the Illinois Procurement Code as they apply to responsible bidders and to present satisfactory evidence of that compliance to the Department.

(g) New and existing data centers seeking a certificate of exemption for the rehabilitation or construction of data centers in the State shall require the contractor to enter into a project labor agreement approved by the Department.

(h) Any qualifying data center issued a certificate of exemption under this Section must annually report to the Department the total data center tax benefits that are received by the business. Reports are due no later than May 31 of each year and shall cover the previous calendar year. The first report is for the 2019 calendar year and is due no later than May 31, 2020.

To the extent that a business issued a certificate of exemption under this Section has obtained an Enterprise Zone Building Materials Exemption Certificate or a High Impact Business Building Materials Exemption Certificate, no additional reporting for those building materials exemption benefits is required under this Section.

Failure to file a report under this subsection (h) may result in suspension or revocation of the certificate of exemption. Factors to be considered in determining whether a data center certificate of exemption shall be suspended or revoked include, but are not limited to, prior compliance with the reporting requirements, cooperation in discontinuing and correcting violations, the extent of the violation, and whether the violation was willful or inadvertent.

(i) The Department shall not issue any new certificates of exemption under the provisions of this Section after July 1, 2029. This sunset shall not affect any existing certificates of exemption in effect on July 1, 2029.

(j) The Department shall adopt rules to implement and administer this Section.

History

2019 P.A. 101-31, § 15-10, effective June 28, 2019; 2021 P.A. 102-427, § 5, effective August 20, 2021; 2021 P.A. 102-558, § 100, effective August 20, 2021.

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