TYRONE C. FAHNER
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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COPY

FILE NO. 82-010

REVENUE:
Power of Taxing Districts to
Abate Taxes Pursuant to
Section 162 of the Revenue
Code of 1939

Honorable Robert J. Barry
State's Attorney, Logan County
Room 31, Courthouse
Lincoln, Illinois 62656

Dear Mr. Barry:

I have your letter in which you request my opinion regarding the interpretation of section 162 of the Revenue Act of 1939 (Ill. Rev. Stat. 1979, ch. 120, par. 643, as amended by P.A. 82-316, effective January 1, 1982). Section 162 of the Revenue Act of 1939 provides in pertinent part:

> "Each county clerk shall estimate and determine the rate per cent upon the assessed valuation of the property in the respective taxing districts and special service areas established pursuant to Article

> VII of the Constitution of the State of Illinois, in his county that will produce, within the proper divisions of such county, not less than the net amount of the several sums that will be required by the county board or certified to him according to law; * * *.
>
> Any taxing district, upon a majority vote of its governing authority, may, after the determination of the assessed valuation of its property, order the clerk of that county to abate any portion of its taxes on the property of any industrial firm locating within the taxing district during the immediately preceding calendar year from another state, territory, or country, or having been newly created within this State during the immediately preceding calendar year, or for an expanded previously existing facility. Such abatement shall not exceed a period of 10 years and the total aggregate amount of abated taxes shall not exceed $1,000,000.
>
> * * * "
>
> (Emphasis added.)

The underscored language above was added to section 162 of the Act by Public Act 82-316.

You state in your letter that your inquiry is prompted by the fact that an insurance company which presently operates other facilities in Illinois is considering locating an additional facility in Logan County. This facility would be a regional office building employing a number of persons in clerical and executive positions. The company has requested the governing authorities of the county and other taxing districts to abate all or a portion of the taxes on the property of the business for the next several years. You ask the following questions concerning the application of section 162 of the Revenue Act of 1939 to a situation such as you have described:

1. Is an insurance company an "industrial firm" within the meaning of section 162?

2. If an industrial firm currently operating other facilities in Illinois expands by locating a new facility within a taxing district, is the governing authority of the district authorized to abate taxes on the property?

3. May the governing authority of a taxing district abate taxes on the property of an otherwise eligible industrial firm which locates a facility within the district at any time during the calendar year immediately preceding the valuation of its property, or must the industrial firm have been located within the taxing district for a full year?

4. Does the phrase "the total aggregate amount of abated taxes shall not exceed $1,000,000" apply to each taxing district, or does it create a limit on the total abatement of taxes by the electing districts collectively?

In response to your first question, the term "industrial firm" is not defined in the provisions of the Revenue Act of 1939. In the absence of a contrary statutory definition, words used in a statute are to be given their dictionary meaning, or their popularly understood meaning. McQueen v. Erickson (1978), 61 Ill. App. 3d 859, 863; Conlon-Moore Corp. v. Cummins (1960), 28 Ill. App. 2d 368, 371-72, aff'd sub nom. Conlon-Moore Corp. v. Johnston, 23 Ill. 2d 341 (1961).

The word "industrial" has been defined as "* * * of, connected with, or resulting from industries" (Webster's New World Dictionary 718 (Second College Edition 1980)); "of or belonging to industry * * * " (Webster's Third New International Dictionary 1155 (1981)). "Industry" has been defined

as "* * * any particular branch of productive, esp. manufacturing, enterprise * * *" (Webster's New World Dictionary 719 (Second College Edition 1980)). "Industry" is ordinarily understood to mean a business or concern which is engaged primarily in the manufacture or assembly of goods or the processing of raw materials, or both. Union Mutual Life Insurance Company v. Emerson (Sup. Jud. Ct. Me. 1975), 345 A.2d 504, 507; State Police Department v. Hargrave (Ind. App. 1968), 237 N.E.2d 269, 274-75.

It is my opinion that the term "industrial firm", when given its ordinary and commonly understood meaning, is intended to mean those enterprises utilizing labor and engaging in "industrial" activities, such as production, manufacture, or assembly of goods, or other products. It does not include businesses colloquially referred to as "industries", such as the "banking industry" or the "insurance industry". (See, North Side Laundry Co. v. Board of Property Assess. (Sup. Ct. Pa. 1951), 79 A.2d 419, 421, appeal dismissed, 342 U.S. 803 (1951). Therefore, it is my opinion that an insurance company is not an "industrial firm" within the meaning of section 162 of the Act.

In response to your second question, section 162 of the Act expressly permits the abatement of property taxes in three circumstances: firstly, when an industrial firm locates within the taxing district from another State, territory, or

country; secondly, when an industrial firm is created within Illinois during the calendar year immediately preceding the decision by a taxing body to abate taxes; lastly, when an industrial firm expands a previously existing facility within the taxing district. This construction is required because syntactically the term "industrial firm" is the subject of each of the three clauses stated in the disjunctive.

The enumeration of certain things within a statute implies the exclusion of all others. (People v. Schaffra (1975), 30 Ill. App. 3d 600, 602.) Applying this canon of statutory construction to the language of section 162 of the Act, it is my opinion that the location of a new facility in a taxing district by a business already operating in Illinois does not fall within any of the three statutory categories with respect to which a taxing body is authorized to abate property taxes, and therefore, there is no authority for the abatement of taxes under such circumstances.

This conclusion is supported by reference to the floor debates of the General Assembly concerning the passage of Senate Bill 486, subsequently enacted as Public Act 82-316. On third reading in the House of Representatives, Representative McPike asked whether a corporation currently doing business in Illinois, which locates a new facility elsewhere in the State, would be eligible for property tax abatement under section 162 of the Act. The following colloquy between Representative McPike and Representative Davis, House sponsor of Senate Bill 486, occurred in response to the inquiry:

"McPike: '[I]f [Illinois corporations] move across county lines, would they qualify?'

Davis: 'Under the Bill it was not my intent that that should be the case. * * * The Bills say, "from another state, territory or a country or having been newly created within this state". To me, that language means a new facility that is not existing in another portion of the state.

* * *

Or expanded facility that is on site in that particular county. That does not mean, to me, that a corporation coming from Chicago to Will County or to LaSalle County would qualify.'" (Remarks of Representatives McPike, Davis, June 17, 1981, House Debate on Senate Bill No. 486, at 136.)

In response to your third question, Public Act 82-316 clearly permits property tax abatement conditioned only upon the location, creation or expansion of an industrial facility during the calendar year immediately preceding the determination of the assessed valuation of the taxing district's property. Where the language of a statutory provision is plain and certain, it must be given effect, and its plain meaning cannot be enlarged or restricted. (Bovinette v. City of Mascoutah (1973), 55 Ill. 2d 129, 133.) It is my opinion that there is no express or implied requirement in section 162 of the Revenue Act of 1939 that an industrial firm or its facility have been located within the taxing district for a full year before the governing authority may elect to abate taxes on its property.

In response to your final question, the sentence "[s]uch abatement shall not exceed a period of 10 years and the total aggregate amount of abated taxes shall not exceed $1,000,000" is in the nature of a limitation. A proviso or limitation is intended to qualify what is affirmed in the body of the section or paragraph preceding it, and its effect is to restrict the general language used to the prescribed and defined limits. (Illinois Chiropractic Society v. Giello (1960), 18 Ill. 2d 306, 312; Stafford v. Wessel (1943), 321 Ill. App. 183, 185.) The enactment and the proviso or limitation must be construed together. Stafford v. Wessel (1943), 321 Ill. App. 183, 185.

Section 162 of the Revenue Code of 1939, as amended by Public Act 82-316, permits any individual taxing district to abate taxes as authorized in the section. The limitation regarding the total aggregate amount of taxes which may be abated must also be construed to apply to any individual taxing district which elects to abate taxes in acordance with the provisions of section 162 of the Revenue Act of 1939. Therefore, it is my opinion that the phrase "the total amount of abated taxes shall not exceed $1,000,000" applies separately to each taxing district which elects to abate taxes.

Very truly yours,

ATTORNEY GENERAL