

ALABAMA DEPARTMENT OF REVENUE
REVENUE RULING 93-008

This document may not be used or cited as precedent. Code of Alabama 1975, §40-2A-5(a).

REQUESTOR: Company A

SUBJECT: Qualifications for tax abatements pursuant to §40-9B-1, et seq., Code of Alabama 1975 (Cum. Supp. 1992).

DATE: August 3, 1993

FACTS

Company A (Taxpayer), a Virginia corporation, has announced its plans to acquire, construct and equip a regional distribution center to be located within the city limits of the City of Gadsden. The capital investment involved is estimated to be approximately \$8,000,000.00. A public authority will own the facility and lease it to the Taxpayer.

The Taxpayer owns and operates its own retail establishments throughout the Southeast which will be served by the facility when completed and placed in service. The facility will be primarily for the distribution of motor vehicle supplies, assessories, tools, equipment and motor vehicle parts to the retail locations of the Taxpayer.

ISSUE

Whether private use property to be used by the Taxpayer to engage in the distribution of motor vehicle supplies, assessories, tools, equipment and new motor vehicle parts, to retail establishments owned by the Taxpayer, but located

elsewhere, both within and without Alabama, qualifies as private use industrial property in accordance with §40-9B-3(m), Code of Alabama 1975, (Cum. Supp. 1992).

LAW AND ANALYSIS

The Tax Incentive Reform Act of 1992, §40-9B-1, et seq., Code of Alabama 1975, (Cum. Supp. 1992), provides for the abatement of noneducational ad valorem and construction related transaction taxes with respect to private use property (§40-9B-4(a)). In order for property to qualify, it must be private use industrial property. Section 40-9B-3(m) defines private use industrial property as "Private use property that also constitutes industrial development property." Section 40-9B-3(e) defines industrial development property as "Real and/or personal property acquired in connection with establishing or expanding an industrial or research enterprise in Alabama." Industrial or research enterprise is defined at §40-9B-3(f) as "any trade or business described in 1987 Standard Industrial Classification Major Groups 20 to 39, inclusive, 50 and 51, Industrial Group No. 737, and industry numbers 8731, 8733, and 8734, as set forth in the Standard Industrial Classification Manual published by the United States Government Office of Management and Budget."

In order to determine whether or not Company A's planned acquisition and development qualifies as an industrial or research enterprise, its standard industrial classification must be determined. The 1987 Standard Industrial Classification Manual published by the United States Office of Management and

Budget, classifies major group 50 - wholesale trade - durable goods - as "establishments primarily engaged in the wholesale distribution of durable goods." Within that major group, under industry group No. 501, the manual provides as follows:

5013 Motor Vehicle Supplies and New Parts

Establishments primarily engaged in the wholesale distribution of motor vehicle supplies, accessories, tools, and equipment; and new vehicle parts.

Based on the facts as presented, it appears that Company A's planned project falls squarely within a major group specified in §40-9B-3(f).

HOLDING

Company A's planned project qualifies as an industrial or research enterprise as defined by §40-9B-3(f), Code of Alabama 1975 (Cum. Supp. 1992). The property and equipment to be acquired as well as any construction to be accomplished is for the purpose of establishing this enterprise. Therefore, the real and personal property is private use industrial property.

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Acting Commissioner of Revenue

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