



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0320

Introduced 1/20/2005, by Rep. Joe Dunn

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-50

from Ch. 120, par. 439.3-50

35 ILCS 120/2-45

from Ch. 120, par. 441-45

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Provides that the manufacturing and assembling machinery and equipment exemption also includes production related tangible personal property. Defines "production related tangible personal property" as all tangible personal property used or consumed by the purchaser in a manufacturing facility in which a manufacturing process takes place, including tangible personal property purchased for incorporation into real estate within a manufacturing facility and including, but not limited to, tangible personal property used or consumed in activities such as preproduction material handling, receiving, quality control, inventory control, storage, staging, and packaging for shipping and transportation purposes. Provides that "production related tangible personal property" does not include (i) tangible personal property used, within or without a manufacturing facility, in sales, purchasing, accounting, fiscal management, marketing, personnel recruitment or selection, or landscaping or (ii) tangible personal property required to be titled or registered with a department, agency, or unit of federal, state, or local government. Effective immediately.

LRB094 02428 BDD 32428 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 5. The Use Tax Act is amended by changing Section
5 3-50 as follows:

6 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

7 Sec. 3-50. Manufacturing and assembly exemption. The
8 manufacturing and assembling machinery and equipment exemption
9 includes machinery and equipment that replaces machinery and
10 equipment in an existing manufacturing facility as well as
11 machinery and equipment that are for use in an expanded or new
12 manufacturing facility. The machinery and equipment exemption
13 also includes machinery and equipment used in the general
14 maintenance or repair of exempt machinery and equipment or for
15 in-house manufacture of exempt machinery and equipment. The
16 manufacturing and assembling machinery and equipment exemption
17 also includes production related tangible personal property.
18 For the purposes of this exemption, terms have the following
19 meanings:

20 (1) "Manufacturing process" means the production of an
21 article of tangible personal property, whether the article
22 is a finished product or an article for use in the process
23 of manufacturing or assembling a different article of
24 tangible personal property, by a procedure commonly
25 regarded as manufacturing, processing, fabricating, or
26 refining that changes some existing material into a
27 material with a different form, use, or name. In relation
28 to a recognized integrated business composed of a series of
29 operations that collectively constitute manufacturing, or
30 individually constitute manufacturing operations, the
31 manufacturing process commences with the first operation
32 or stage of production in the series and does not end until

1 the completion of the final product in the last operation
2 or stage of production in the series. For purposes of this
3 exemption, photoprocessing is a manufacturing process of
4 tangible personal property for wholesale or retail sale.

5 (2) "Assembling process" means the production of an
6 article of tangible personal property, whether the article
7 is a finished product or an article for use in the process
8 of manufacturing or assembling a different article of
9 tangible personal property, by the combination of existing
10 materials in a manner commonly regarded as assembling that
11 results in an article or material of a different form, use,
12 or name.

13 (3) "Machinery" means major mechanical machines or
14 major components of those machines contributing to a
15 manufacturing or assembling process.

16 (4) "Equipment" includes an independent device or tool
17 separate from machinery but essential to an integrated
18 manufacturing or assembly process; including computers
19 used primarily in a manufacturer's computer assisted
20 design, computer assisted manufacturing (CAD/CAM) system;
21 any subunit or assembly comprising a component of any
22 machinery or auxiliary, adjunct, or attachment parts of
23 machinery, such as tools, dies, jigs, fixtures, patterns,
24 and molds; and any parts that require periodic replacement
25 in the course of normal operation; but does not include
26 hand tools. Equipment includes chemicals or chemicals
27 acting as catalysts but only if the chemicals or chemicals
28 acting as catalysts effect a direct and immediate change
29 upon a product being manufactured or assembled for
30 wholesale or retail sale or lease.

31 (5) "Production related tangible personal property"
32 means all tangible personal property used or consumed by
33 the purchaser in a manufacturing facility in which a
34 manufacturing process, as defined in this Section, takes
35 place, including tangible personal property purchased for
36 incorporation into real estate within a manufacturing

1 facility and including, but not limited to, tangible
2 personal property used or consumed in activities such as
3 preproduction material handling, receiving, quality
4 control, inventory control, storage, staging, and
5 packaging for shipping and transportation purposes.
6 "Production related tangible personal property" does not
7 include (i) tangible personal property used, within or
8 without a manufacturing facility, in sales, purchasing,
9 accounting, fiscal management, marketing, personnel
10 recruitment or selection, or landscaping or (ii) tangible
11 personal property required to be titled or registered with
12 a department, agency, or unit of federal, state, or local
13 government.

14 The manufacturing and assembling machinery and equipment
15 exemption includes the sale of materials to a purchaser who
16 produces exempted types of machinery, equipment, or tools and
17 who rents or leases that machinery, equipment, or tools to a
18 manufacturer of tangible personal property. This exemption
19 also includes the sale of materials to a purchaser who
20 manufactures those materials into an exempted type of
21 machinery, equipment, or tools that the purchaser uses himself
22 or herself in the manufacturing of tangible personal property.
23 This exemption includes the sale of exempted types of machinery
24 or equipment to a purchaser who is not the manufacturer, but
25 who rents or leases the use of the property to a manufacturer.
26 The purchaser of the machinery and equipment who has an active
27 resale registration number shall furnish that number to the
28 seller at the time of purchase. A user of the machinery,
29 equipment, or tools without an active resale registration
30 number shall prepare a certificate of exemption for each
31 transaction stating facts establishing the exemption for that
32 transaction, and that certificate shall be available to the
33 Department for inspection or audit. The Department shall
34 prescribe the form of the certificate. Informal rulings,
35 opinions, or letters issued by the Department in response to an
36 inquiry or request for an opinion from any person regarding the

1 coverage and applicability of this exemption to specific
2 devices shall be published, maintained as a public record, and
3 made available for public inspection and copying. If the
4 informal ruling, opinion, or letter contains trade secrets or
5 other confidential information, where possible, the Department
6 shall delete that information before publication. Whenever
7 informal rulings, opinions, or letters contain a policy of
8 general applicability, the Department shall formulate and
9 adopt that policy as a rule in accordance with the Illinois
10 Administrative Procedure Act.

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

12 Section 10. The Retailers' Occupation Tax Act is amended by
13 changing Section 2-45 as follows:

14 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

15 Sec. 2-45. Manufacturing and assembly exemption. The
16 manufacturing and assembly machinery and equipment exemption
17 includes machinery and equipment that replaces machinery and
18 equipment in an existing manufacturing facility as well as
19 machinery and equipment that are for use in an expanded or new
20 manufacturing facility.

21 The machinery and equipment exemption also includes
22 machinery and equipment used in the general maintenance or
23 repair of exempt machinery and equipment or for in-house
24 manufacture of exempt machinery and equipment. The
25 manufacturing and assembling machinery and equipment exemption
26 also includes production related tangible personal property.
27 For the purposes of this exemption, terms have the following
28 meanings:

29 (1) "Manufacturing process" means the production of an
30 article of tangible personal property, whether the article
31 is a finished product or an article for use in the process
32 of manufacturing or assembling a different article of
33 tangible personal property, by a procedure commonly
34 regarded as manufacturing, processing, fabricating, or

1 refining that changes some existing material or materials
2 into a material with a different form, use, or name. In
3 relation to a recognized integrated business composed of a
4 series of operations that collectively constitute
5 manufacturing, or individually constitute manufacturing
6 operations, the manufacturing process commences with the
7 first operation or stage of production in the series and
8 does not end until the completion of the final product in
9 the last operation or stage of production in the series.
10 For purposes of this exemption, photoprocessing is a
11 manufacturing process of tangible personal property for
12 wholesale or retail sale.

13 (2) "Assembling process" means the production of an
14 article of tangible personal property, whether the article
15 is a finished product or an article for use in the process
16 of manufacturing or assembling a different article of
17 tangible personal property, by the combination of existing
18 materials in a manner commonly regarded as assembling that
19 results in a material of a different form, use, or name.

20 (3) "Machinery" means major mechanical machines or
21 major components of those machines contributing to a
22 manufacturing or assembling process.

23 (4) "Equipment" includes an independent device or tool
24 separate from machinery but essential to an integrated
25 manufacturing or assembly process; including computers
26 used primarily in a manufacturer's computer assisted
27 design, computer assisted manufacturing (CAD/CAM) system;
28 any subunit or assembly comprising a component of any
29 machinery or auxiliary, adjunct, or attachment parts of
30 machinery, such as tools, dies, jigs, fixtures, patterns,
31 and molds; and any parts that require periodic replacement
32 in the course of normal operation; but does not include
33 hand tools. Equipment includes chemicals or chemicals
34 acting as catalysts but only if the chemicals or chemicals
35 acting as catalysts effect a direct and immediate change
36 upon a product being manufactured or assembled for

1 wholesale or retail sale or lease.

2 (5) "Production related tangible personal property"
3 means all tangible personal property used or consumed by
4 the purchaser in a manufacturing facility in which a
5 manufacturing process, as defined in this Section, takes
6 place, including tangible personal property purchased for
7 incorporation into real estate within a manufacturing
8 facility and including, but not limited to, tangible
9 personal property used or consumed in activities such as
10 preproduction material handling, receiving, quality
11 control, inventory control, storage, staging, and
12 packaging for shipping and transportation purposes.
13 "Production related tangible personal property" does not
14 include (i) tangible personal property used, within or
15 without a manufacturing facility, in sales, purchasing,
16 accounting, fiscal management, marketing, personnel
17 recruitment or selection, or landscaping or (ii) tangible
18 personal property required to be titled or registered with
19 a department, agency, or unit of federal, state, or local
20 government.

21 The manufacturing and assembling machinery and equipment
22 exemption includes the sale of materials to a purchaser who
23 produces exempted types of machinery, equipment, or tools and
24 who rents or leases that machinery, equipment, or tools to a
25 manufacturer of tangible personal property. This exemption
26 also includes the sale of materials to a purchaser who
27 manufactures those materials into an exempted type of
28 machinery, equipment, or tools that the purchaser uses himself
29 or herself in the manufacturing of tangible personal property.
30 The purchaser of the machinery and equipment who has an active
31 resale registration number shall furnish that number to the
32 seller at the time of purchase. A purchaser of the machinery,
33 equipment, and tools without an active resale registration
34 number shall furnish to the seller a certificate of exemption
35 for each transaction stating facts establishing the exemption
36 for that transaction, and that certificate shall be available

1 to the Department for inspection or audit. Informal rulings,
2 opinions, or letters issued by the Department in response to an
3 inquiry or request for an opinion from any person regarding the
4 coverage and applicability of this exemption to specific
5 devices shall be published, maintained as a public record, and
6 made available for public inspection and copying. If the
7 informal ruling, opinion, or letter contains trade secrets or
8 other confidential information, where possible, the Department
9 shall delete that information before publication. Whenever
10 informal rulings, opinions, or letters contain a policy of
11 general applicability, the Department shall formulate and
12 adopt that policy as a rule in accordance with the Illinois
13 Administrative Procedure Act.

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

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