



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2307

Introduced 1/12/2006, by Sen. Terry Link

#### 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 research and development, 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 16225 BDD 51469 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 research and development, preproduction material handling,  
4 receiving, quality control, inventory control, storage,  
5 staging, and packaging for shipping and transportation  
6 purposes. "Production related tangible personal property"  
7 does not include (i) tangible personal property used,  
8 within or without a manufacturing facility, in sales,  
9 purchasing, accounting, fiscal management, marketing,  
10 personnel recruitment or selection, or landscaping or (ii)  
11 tangible personal property required to be titled or  
12 registered with a department, agency, or unit of federal,  
13 state, or local 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 research and development, preproduction material handling,  
11 receiving, quality control, inventory control, storage,  
12 staging, and packaging for shipping and transportation  
13 purposes. "Production related tangible personal property"  
14 does not include (i) tangible personal property used,  
15 within or without a manufacturing facility, in sales,  
16 purchasing, accounting, fiscal management, marketing,  
17 personnel recruitment or selection, or landscaping or (ii)  
18 tangible personal property required to be titled or  
19 registered with a department, agency, or unit of federal,  
20 state, or local 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.