



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB5001

by Rep. Robert F. Flider

#### SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-50  
35 ILCS 120/2-45

from Ch. 120, par. 439.3-50  
from Ch. 120, par. 441-45

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Extends the manufacturing and assembly exemption from 2008 to 2013. Provides that, for purchases made on or after July 1, 2008, and on or before June 30, 2013, the maximum aggregate amount of the exemptions for production related tangible personal property awarded under the Acts to all taxpayers may not exceed \$29,000,000. Makes a technical change. Effective immediately.

LRB095 18176 BDD 44259 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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. For the  
16 purposes of this exemption, terms have the following meanings:

17 (1) "Manufacturing process" means the production of an  
18 article of tangible personal property, whether the article  
19 is a finished product or an article for use in the process  
20 of manufacturing or assembling a different article of  
21 tangible personal property, by a procedure commonly  
22 regarded as manufacturing, processing, fabricating, or  
23 refining that changes some existing material into a

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

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

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

22 (4) "Equipment" includes an independent device or tool  
23 separate from machinery but essential to an integrated  
24 manufacturing or assembly process; including computers  
25 used primarily in a manufacturer's computer assisted  
26 design, computer assisted manufacturing (CAD/CAM) system;

1 any subunit or assembly comprising a component of any  
2 machinery or auxiliary, adjunct, or attachment parts of  
3 machinery, such as tools, dies, jigs, fixtures, patterns,  
4 and molds; and any parts that require periodic replacement  
5 in the course of normal operation; but does not include  
6 hand tools. Equipment includes chemicals or chemicals  
7 acting as catalysts but only if the chemicals or chemicals  
8 acting as catalysts effect a direct and immediate change  
9 upon a product being manufactured or assembled for  
10 wholesale or retail sale or lease.

11 (5) "Production related tangible personal property"  
12 means all tangible personal property that is used or  
13 consumed by the purchaser in a manufacturing facility in  
14 which a manufacturing process takes place and includes,  
15 without limitation, tangible personal property that is  
16 purchased for incorporation into real estate within a  
17 manufacturing facility and tangible personal property that  
18 is used or consumed in activities such as research and  
19 development, preproduction material handling, receiving,  
20 quality control, inventory control, storage, staging, and  
21 packaging for shipping and transportation purposes.  
22 "Production related tangible personal property" does not  
23 include (i) tangible personal property that is used, within  
24 or without a manufacturing facility, in sales, purchasing,  
25 accounting, fiscal management, marketing, personnel  
26 recruitment or selection, or landscaping or (ii) tangible

1 personal property that is required to be titled or  
2 registered with a department, agency, or unit of federal,  
3 State, or local government.

4 The manufacturing and assembling machinery and equipment  
5 exemption includes production related tangible personal  
6 property that is purchased on or after July 1, 2007 and on or  
7 before June 30, 2013 ~~2008~~. The exemption for production related  
8 tangible personal property is subject to both of the following  
9 limitations:

10 (1) The maximum amount of the exemption for any one  
11 taxpayer may not exceed 5% of the purchase price of  
12 production related tangible personal property that is  
13 purchased on or after July 1, 2007 and on or before June  
14 30, 2008. A credit under Section 3-85 of this Act may not  
15 be earned by the purchase of production related tangible  
16 personal property for which an exemption is received under  
17 this Section.

18 (2) For purchases made on or after July 1, 2007 and on  
19 or before June 30, 2008, the ~~The~~ maximum aggregate amount  
20 of the exemptions for production related tangible personal  
21 property awarded under this Act and the Retailers'  
22 Occupation Tax Act to all taxpayers may not exceed  
23 \$10,000,000. If the claims for the exemption exceed  
24 \$10,000,000, then the Department shall reduce the amount of  
25 the exemption to each taxpayer on a pro rata basis.

26 (3) For purchases made on or after July 1, 2008, and on

1       or before June 30, 2013, the maximum aggregate amount of  
2       the exemptions for production related tangible personal  
3       property awarded under this Act and the Retailers'  
4       Occupation Tax Act to all taxpayers may not exceed  
5       \$29,000,000. If the claims for the exemption exceed  
6       \$29,000,000, then the Department shall reduce the amount of  
7       the exemption to each taxpayer on a pro rata basis.

8       The Department may adopt rules to implement and administer the  
9       exemption for production related tangible personal property.

10       The manufacturing and assembling machinery and equipment  
11       exemption includes the sale of materials to a purchaser who  
12       produces exempted types of machinery, equipment, or tools and  
13       who rents or leases that machinery, equipment, or tools to a  
14       manufacturer of tangible personal property. This exemption  
15       also includes the sale of materials to a purchaser who  
16       manufactures those materials into an exempted type of  
17       machinery, equipment, or tools that the purchaser uses himself  
18       or herself in the manufacturing of tangible personal property.  
19       This exemption includes the sale of exempted types of machinery  
20       or equipment to a purchaser who is not the manufacturer, but  
21       who rents or leases the use of the property to a manufacturer.  
22       The purchaser of the machinery and equipment who has an active  
23       resale registration number shall furnish that number to the  
24       seller at the time of purchase. A user of the machinery,  
25       equipment, or tools without an active resale registration  
26       number shall prepare a certificate of exemption for each

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

17 (Source: P.A. 95-707, eff. 1-11-08.)

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

20 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

21 Sec. 2-45. Manufacturing and assembly exemption. The  
22 manufacturing and assembly machinery and equipment exemption  
23 includes machinery and equipment that replaces machinery and  
24 equipment in an existing manufacturing facility as well as

1 machinery and equipment that are for use in an expanded or new  
2 manufacturing facility.

3 The machinery and equipment exemption also includes  
4 machinery and equipment used in the general maintenance or  
5 repair of exempt machinery and equipment or for in-house  
6 manufacture of exempt machinery and equipment. For the purposes  
7 of this exemption, terms have the following meanings:

8 (1) "Manufacturing process" means the production of an  
9 article of tangible personal property, whether the article  
10 is a finished product or an article for use in the process  
11 of manufacturing or assembling a different article of  
12 tangible personal property, by a procedure commonly  
13 regarded as manufacturing, processing, fabricating, or  
14 refining that changes some existing material or materials  
15 into a material with a different form, use, or name. In  
16 relation to a recognized integrated business composed of a  
17 series of operations that collectively constitute  
18 manufacturing, or individually constitute manufacturing  
19 operations, the manufacturing process commences with the  
20 first operation or stage of production in the series and  
21 does not end until the completion of the final product in  
22 the last operation or stage of production in the series.  
23 For purposes of this exemption, photoprocessing is a  
24 manufacturing process of tangible personal property for  
25 wholesale or retail sale.

26 (2) "Assembling process" means the production of an



1 article of tangible personal property, whether the article  
2 is a finished product or an article for use in the process  
3 of manufacturing or assembling a different article of  
4 tangible personal property, by the combination of existing  
5 materials in a manner commonly regarded as assembling that  
6 results in a material of a different form, use, or name.

7 (3) "Machinery" means major mechanical machines or  
8 major components of those machines contributing to a  
9 manufacturing or assembling process.

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

25 (5) "Production related tangible personal property"  
26 means all tangible personal property that is used or

1 consumed by the purchaser in a manufacturing facility in  
2 which a manufacturing process takes place and includes,  
3 without limitation, tangible personal property that is  
4 purchased for incorporation into real estate within a  
5 manufacturing facility and tangible personal property that  
6 is used or consumed in activities such as research and  
7 development, preproduction material handling, receiving,  
8 quality control, inventory control, storage, staging, and  
9 packaging for shipping and transportation purposes.

10 "Production related tangible personal property" does not  
11 include (i) tangible personal property that is used, within  
12 or without a manufacturing facility, in sales, purchasing,  
13 accounting, fiscal management, marketing, personnel  
14 recruitment or selection, or landscaping or (ii) tangible  
15 personal property that is required to be titled or  
16 registered with a department, agency, or unit of federal,  
17 State, or local government.

18 The manufacturing and assembling machinery and equipment  
19 exemption includes production related tangible personal  
20 property that is purchased on or after July 1, 2007 and on or  
21 before June 30, 2013 ~~2008~~. The exemption for production related  
22 tangible personal property is subject to both of the following  
23 limitations:

24 (1) The maximum amount of the exemption for any one  
25 taxpayer may not exceed 5% of the purchase price of  
26 production related tangible personal property that is

1 purchased on or after July 1, 2007 and on or before June  
2 30, 2008. A credit under Section 3-85 of this Act may not  
3 be earned by the purchase of production related tangible  
4 personal property for which an exemption is received under  
5 this Section.

6 (2) For purchases made on or after July 1, 2007 and on  
7 or before June 30, 2008, the ~~The~~ maximum aggregate amount  
8 of the exemptions for production related tangible personal  
9 property awarded under this Act and the Use Retailers'  
10 ~~Occupation~~ Tax Act to all taxpayers may not exceed  
11 \$10,000,000. If the claims for the exemption exceed  
12 \$10,000,000, then the Department shall reduce the amount of  
13 the exemption to each taxpayer on a pro rata basis.

14 (3) For purchases made on or after July 1, 2008, and on  
15 or before June 30, 2013, the maximum aggregate amount of  
16 the exemptions for production related tangible personal  
17 property awarded under this Act and the Use Tax Act to all  
18 taxpayers may not exceed \$29,000,000. If the claims for the  
19 exemption exceed \$29,000,000, then the Department shall  
20 reduce the amount of the exemption to each taxpayer on a  
21 pro rata basis.

22 The Department may adopt rules to implement and administer the  
23 exemption for production related tangible personal property.

24 The manufacturing and assembling machinery and equipment  
25 exemption includes the sale of materials to a purchaser who  
26 produces exempted types of machinery, equipment, or tools and

1 who rents or leases that machinery, equipment, or tools to a  
2 manufacturer of tangible personal property. This exemption  
3 also includes the sale of materials to a purchaser who  
4 manufactures those materials into an exempted type of  
5 machinery, equipment, or tools that the purchaser uses himself  
6 or herself in the manufacturing of tangible personal property.  
7 The purchaser of the machinery and equipment who has an active  
8 resale registration number shall furnish that number to the  
9 seller at the time of purchase. A purchaser of the machinery,  
10 equipment, and tools without an active resale registration  
11 number shall furnish to the seller a certificate of exemption  
12 for each transaction stating facts establishing the exemption  
13 for that transaction, and that certificate shall be available  
14 to the Department for inspection or audit. Informal rulings,  
15 opinions, or letters issued by the Department in response to an  
16 inquiry or request for an opinion from any person regarding the  
17 coverage and applicability of this exemption to specific  
18 devices shall be published, maintained as a public record, and  
19 made available for public inspection and copying. If the  
20 informal ruling, opinion, or letter contains trade secrets or  
21 other confidential information, where possible, the Department  
22 shall delete that information before publication. Whenever  
23 informal rulings, opinions, or letters contain a policy of  
24 general applicability, the Department shall formulate and  
25 adopt that policy as a rule in accordance with the Illinois  
26 Administrative Procedure Act.

1 (Source: P.A. 95-707, eff. 1-11-08.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.