



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1248

Introduced 2/9/2007, by Sen. Terry Link - Martin A. Sandoval

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. 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.

LRB095 07862 BDD 28023 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. 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

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

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

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

25 (4) "Equipment" includes an independent device or tool
26 separate from machinery but essential to an integrated

1 manufacturing or assembly process; including computers
2 used primarily in a manufacturer's computer assisted
3 design, computer assisted manufacturing (CAD/CAM) system;
4 any subunit or assembly comprising a component of any
5 machinery or auxiliary, adjunct, or attachment parts of
6 machinery, such as tools, dies, jigs, fixtures, patterns,
7 and molds; and any parts that require periodic replacement
8 in the course of normal operation; but does not include
9 hand tools. Equipment includes chemicals or chemicals
10 acting as catalysts but only if the chemicals or chemicals
11 acting as catalysts effect a direct and immediate change
12 upon a product being manufactured or assembled for
13 wholesale or retail sale or lease.

14 (5) "Production related tangible personal property"
15 means all tangible personal property used or consumed by
16 the purchaser in a manufacturing facility in which a
17 manufacturing process, as defined in this Section, takes
18 place, including tangible personal property purchased for
19 incorporation into real estate within a manufacturing
20 facility and including, but not limited to, tangible
21 personal property used or consumed in activities such as
22 research and development, preproduction material handling,
23 receiving, quality control, inventory control, storage,
24 staging, and packaging for shipping and transportation
25 purposes. "Production related tangible personal property"
26 does not include (i) tangible personal property used,

1 within or without a manufacturing facility, in sales,
2 purchasing, accounting, fiscal management, marketing,
3 personnel recruitment or selection, or landscaping or (ii)
4 tangible personal property required to be titled or
5 registered with a department, agency, or unit of federal,
6 state, or local government.

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

1 prescribe the form of the certificate. 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 10. The Retailers' Occupation Tax Act is amended by
16 changing Section 2-45 as follows:

17 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

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

24 The machinery and equipment exemption also includes

1 machinery and equipment used in the general maintenance or
2 repair of exempt machinery and equipment or for in-house
3 manufacture of exempt machinery and equipment. The
4 manufacturing and assembling machinery and equipment exemption
5 also includes production related tangible personal property.
6 For the purposes of this exemption, terms have the following
7 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 used or consumed by

1 the purchaser in a manufacturing facility in which a
2 manufacturing process, as defined in this Section, takes
3 place, including tangible personal property purchased for
4 incorporation into real estate within a manufacturing
5 facility and including, but not limited to, tangible
6 personal property used or consumed in activities such as
7 research and development, preproduction material handling,
8 receiving, quality control, inventory control, storage,
9 staging, and packaging for shipping and transportation
10 purposes. "Production related tangible personal property"
11 does not include (i) tangible personal property used,
12 within or without a manufacturing facility, in sales,
13 purchasing, accounting, fiscal management, marketing,
14 personnel recruitment or selection, or landscaping or (ii)
15 tangible personal property 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 the sale of materials to a purchaser who
20 produces exempted types of machinery, equipment, or tools and
21 who rents or leases that machinery, equipment, or tools to a
22 manufacturer of tangible personal property. This exemption
23 also includes the sale of materials to a purchaser who
24 manufactures those materials into an exempted type of
25 machinery, equipment, or tools that the purchaser uses himself
26 or herself in the manufacturing of tangible personal property.

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.