



Adopted in House Comm. on May 28, 2008

09500SB1248ham001

LRB095 07862 HLH 51423 a

1 AMENDMENT TO SENATE BILL 1248

2 AMENDMENT NO. _____. Amend Senate Bill 1248 by replacing
3 everything after the enacting clause with the following:

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:

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

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

26 (3) "Machinery" means major mechanical machines or

1 major components of those machines contributing to a
2 manufacturing or assembling process.

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

18 (5) "Production related tangible personal property"
19 means all tangible personal property that is used or
20 consumed by the purchaser in a manufacturing facility in
21 which a manufacturing process takes place and includes,
22 without limitation, tangible personal property that is
23 purchased for incorporation into real estate within a
24 manufacturing facility and tangible personal property that
25 is used or consumed in activities such as research and
26 development, preproduction material handling, receiving,

1 quality control, inventory control, storage, staging, and
2 packaging for shipping and transportation purposes.
3 "Production related tangible personal property" does not
4 include (i) tangible personal property that is used, within
5 or without a manufacturing facility, in sales, purchasing,
6 accounting, fiscal management, marketing, personnel
7 recruitment or selection, or landscaping or (ii) tangible
8 personal property that is required to be titled or
9 registered with a department, agency, or unit of federal,
10 State, or local government.

11 The manufacturing and assembling machinery and equipment
12 exemption includes production related tangible personal
13 property that is purchased on or after July 1, 2007 and on or
14 before June 30, 2008. This use tax ~~The exemption for production~~
15 ~~related tangible personal property~~ shall be awarded to the
16 taxpayer in the form of a credit memorandum issued by the
17 Department and is subject to both of the following limitations:

18 (1) Purchases of production related tangible personal
19 property made on or after July 1, 2007 and on or before
20 June 30, 2008 are eligible for a credit memorandum equal to
21 ~~The maximum amount of the exemption for any one taxpayer~~
22 ~~may not exceed~~ 5% of the purchase price of the production
23 related tangible personal property ~~that is purchased on or~~
24 ~~after July 1, 2007 and on or before June 30, 2008.~~ A credit
25 under Section 3-85 of this Act may not be earned by the
26 purchase of production related tangible personal property

1 for which a credit memorandum ~~an exemption~~ is received
2 under this Section.

3 (2) The maximum aggregate amount of credit memorandums
4 ~~the exemptions~~ for production related tangible personal
5 property awarded under this Act ~~and the Retailers'~~
6 ~~Occupation Tax Act~~ to all taxpayers may not exceed
7 \$10,000,000. If the claims for the credit memorandums
8 ~~exemption~~ exceed \$10,000,000, then the Department shall
9 reduce the amount of the credit memorandum ~~exemption~~ to
10 each taxpayer on a pro rata basis.

11 By February 28, 2009, the Department shall provide a report
12 to the General Assembly that indicates (i) the amount of
13 production related tangible personal property purchased
14 between July 1, 2007 and June 30, 2008 and reported to the
15 Department for purposes of this exemption, (ii) the amount of
16 credit memorandums issued, and (iii) the estimated impact of
17 providing an exemption for production related tangible
18 personal property from use and occupation taxes.

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

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

1 manufactures those materials into an exempted type of
2 machinery, equipment, or tools that the purchaser uses himself
3 or herself in the manufacturing of tangible personal property.
4 This exemption includes the sale of exempted types of machinery
5 or equipment to a purchaser who is not the manufacturer, but
6 who rents or leases the use of the property to a manufacturer.
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 user of the machinery,
10 equipment, or tools without an active resale registration
11 number shall prepare a certificate of exemption for each
12 transaction stating facts establishing the exemption for that
13 transaction, and that certificate shall be available to the
14 Department for inspection or audit. The Department shall
15 prescribe the form of the certificate. Informal rulings,
16 opinions, or letters issued by the Department in response to an
17 inquiry or request for an opinion from any person regarding the
18 coverage and applicability of this exemption to specific
19 devices shall be published, maintained as a public record, and
20 made available for public inspection and copying. If the
21 informal ruling, opinion, or letter contains trade secrets or
22 other confidential information, where possible, the Department
23 shall delete that information before publication. Whenever
24 informal rulings, opinions, or letters contain a policy of
25 general applicability, the Department shall formulate and
26 adopt that policy as a rule in accordance with the Illinois

1 Administrative Procedure Act.

2 Notwithstanding any other rulemaking authority that may
3 exist, neither the Governor nor any agency or agency head under
4 the jurisdiction of the Governor has any authority to make or
5 promulgate rules to implement or enforce the provisions of this
6 amendatory Act of the 95th General Assembly. If, however, the
7 Governor believes that rules are necessary to implement or
8 enforce the provisions of this amendatory Act of the 95th
9 General Assembly, the Governor may suggest rules to the General
10 Assembly by filing them with the Clerk of the House and the
11 Secretary of the Senate and by requesting that the General
12 Assembly authorize such rulemaking by law, enact those
13 suggested rules into law, or take any other appropriate action
14 in the General Assembly's discretion. Nothing contained in this
15 amendatory Act of the 95th General Assembly shall be
16 interpreted to grant rulemaking authority under any other
17 Illinois statute where such authority is not otherwise
18 explicitly given. For the purposes of this paragraph, "rules"
19 is given the meaning contained in Section 1-70 of the Illinois
20 Administrative Procedure Act, and "agency" and "agency head"
21 are given the meanings contained in Sections 1-20 and 1-25 of
22 the Illinois Administrative Procedure Act to the extent that
23 such definitions apply to agencies or agency heads under the
24 jurisdiction of the Governor.

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

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

3 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

4 Sec. 2-45. Manufacturing and assembly exemption. The
5 manufacturing and assembly machinery and equipment exemption
6 includes machinery and equipment that replaces machinery and
7 equipment in an existing manufacturing facility as well as
8 machinery and equipment that are for use in an expanded or new
9 manufacturing facility.

10 The machinery and equipment exemption also includes
11 machinery and equipment used in the general maintenance or
12 repair of exempt machinery and equipment or for in-house
13 manufacture of exempt machinery and equipment. For the purposes
14 of this exemption, terms have the following meanings:

15 (1) "Manufacturing process" means the production of an
16 article of tangible personal property, whether the article
17 is a finished product or an article for use in the process
18 of manufacturing or assembling a different article of
19 tangible personal property, by a procedure commonly
20 regarded as manufacturing, processing, fabricating, or
21 refining that changes some existing material or materials
22 into a material with a different form, use, or name. In
23 relation to a recognized integrated business composed of a
24 series of operations that collectively constitute
25 manufacturing, or individually constitute manufacturing

1 operations, the manufacturing process commences with the
2 first operation or stage of production in the series and
3 does not end until the completion of the final product in
4 the last operation or stage of production in the series.
5 For purposes of this exemption, photoprocessing is a
6 manufacturing process of tangible personal property for
7 wholesale or retail sale.

8 (2) "Assembling 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 the combination of existing
13 materials in a manner commonly regarded as assembling that
14 results in a material of a different form, use, or name.

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

18 (4) "Equipment" includes an independent device or tool
19 separate from machinery but essential to an integrated
20 manufacturing or assembly process; including computers
21 used primarily in a manufacturer's computer assisted
22 design, computer assisted manufacturing (CAD/CAM) system;
23 any subunit or assembly comprising a component of any
24 machinery or auxiliary, adjunct, or attachment parts of
25 machinery, such as tools, dies, jigs, fixtures, patterns,
26 and molds; and any parts that require periodic replacement

1 in the course of normal operation; but does not include
2 hand tools. Equipment includes chemicals or chemicals
3 acting as catalysts but only if the chemicals or chemicals
4 acting as catalysts effect a direct and immediate change
5 upon a product being manufactured or assembled for
6 wholesale or retail sale or lease.

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

26 ~~The manufacturing and assembling machinery and equipment~~

1 ~~exemption includes production related tangible personal~~
2 ~~property that is purchased on or after July 1, 2007 and on or~~
3 ~~before June 30, 2008. The exemption for production related~~
4 ~~tangible personal property is subject to both of the following~~
5 ~~limitations:~~

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

14 ~~(2) The maximum aggregate amount of the exemptions for~~
15 ~~production related tangible personal property awarded~~
16 ~~under this Act and the Retailers' Occupation Tax Act to all~~
17 ~~taxpayers may not exceed \$10,000,000. If the claims for the~~
18 ~~exemption exceed \$10,000,000, then the Department shall~~
19 ~~reduce the amount of the exemption to each taxpayer on a~~
20 ~~pro rata basis.~~

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

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

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

26 Notwithstanding any other rulemaking authority that may

1 exist, neither the Governor nor any agency or agency head under
2 the jurisdiction of the Governor has any authority to make or
3 promulgate rules to implement or enforce the provisions of this
4 amendatory Act of the 95th General Assembly. If, however, the
5 Governor believes that rules are necessary to implement or
6 enforce the provisions of this amendatory Act of the 95th
7 General Assembly, the Governor may suggest rules to the General
8 Assembly by filing them with the Clerk of the House and the
9 Secretary of the Senate and by requesting that the General
10 Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this paragraph, "rules"
17 is given the meaning contained in Section 1-70 of the Illinois
18 Administrative Procedure Act, and "agency" and "agency head"
19 are given the meanings contained in Sections 1-20 and 1-25 of
20 the Illinois Administrative Procedure Act to the extent that
21 such definitions apply to agencies or agency heads under the
22 jurisdiction of the Governor.

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."