

DEPARTMENT OF STATE REVENUE
Revenue Ruling #2009-06 ST
June 10, 2009

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ISSUES

Sales/Use Tax – Application of Sales/Use Tax to Purchase, Storage, Use and/or Consumption of Tangible Personal Property Utilized in Generating Electric Power – Manufacturing Exemption

A company is seeking an opinion on whether it is subject to sales/use tax collection requirements on the acquisition, storage, use and/or consumption of tangible personal property used in the construction of electricity-generating wind turbines. More specifically, Taxpayer seeks the following rulings:

- (1) Whether Taxpayer's acquisition, storage, use and/or consumption of tangible personal property which consists of or becomes a part of a wind turbine, including the foundation, tower, nacelle, gearbox, generator, yaw motors, blades, and related component parts, are exempt from sales and use tax under the manufacturing exemption.
- (2) Whether Taxpayer's acquisition, storage, use and/or consumption of tangible personal property which consists of or becomes a part of a transformer in an electrical interconnection system for a wind turbine are exempt from sales and use tax under the manufacturing exemption.

Authority: [IC 6-2.5-1-27](#); [IC 6-2.5-2-1\(a\)](#); [IC 6-2.5-3-2\(a\)](#); [IC 6-2.5-3-4\(a\)](#); [IC 6-2.5-5-3\(b\)](#); [IC 6-2.5-5-3\(c\)](#); [45 IAC 2.2-5-8\(c\)](#).

STATEMENT OF FACTS

Taxpayer is a company that proposes to develop, construct and install wind turbines to be used to generate electricity. Taxpayer will sell the electricity primarily to public utility companies which, in turn, will sell the electricity to their customers. In some instances, Taxpayer may sell some of the electricity produced by its wind turbines to governmental units and/or to private industry.

Taxpayer's request for a ruling includes, in pertinent part, the following facts about wind turbines.

A wind turbine facility generally entails the wind turbine itself, an electrical interconnection system, and access roads used during construction and during power production for maintenance and repair activities. A wind turbine is a rotating machine which converts the kinetic energy in wind into mechanical energy, and then into electrical energy. It consists of a foundation, tower, nacelle, gearbox, generator, yaw motors, blades, and related component parts.

Foundation. The foundation is an underground structural element used to support, anchor, and distribute the weight of the tower, nacelle, gearbox, generator, blades, and related components. The foundation is used to prevent the overturning of the tower/nacelle/blades assembly.

Tower. The tower is the above-ground structural element used to elevate the blades 50 to 70 meters above ground. The tower supports the nacelle/blade assembly, contains an access ladder, and houses electronic control equipment which is used to automatically control blade direction, brake actuation, measure power output, and provide overcurrent protection.

Nacelle and Gearbox. The nacelle is the housing on top of the tower containing the gearbox, generator and yaw motors. The gearbox is a mechanical system of gears used to increase the rotational speed of a drive shaft from that of the blades to a speed conducive to efficient generation of electricity.

Generator and Yaw Motors. The generator is an electromechanical transducer used to convert rotational energy into electrical energy. The yaw motors are electrical motors used to turn the nacelle/blade assembly into the wind during normal operation, and out of the wind to avoid damage during excessively high wind speeds.

Blades. The blades are wing-like structures which capture wind forces and apply torque to the drive shaft.

Electrical Interconnection System. This system consists of a transformer, located near the base of the tower of a wind turbine, which steps up the voltage from that generated by the generator to the voltage used by the local utility for distribution. The system also includes conductors, either suspended aerially from power poles or buried underground in duct banks, as well as metering devices.

ISSUE #1 – DISCUSSION

Taxpayer requests that the Department rule whether Taxpayer's acquisition, storage, use and/or consumption of tangible personal property which consists of or becomes a part of a wind turbine, including the foundation, tower, nacelle, gearbox, generator, yaw motors, blades, and related component parts, are exempt from sales and use tax under the manufacturing exemption.

[IC 6-2.5-2-1\(a\)](#) imposes sales tax on retail transactions made in Indiana. [IC 6-2.5-3-2\(a\)](#) imposes use tax on the storage, use or consumption of tangible personal property in Indiana, if the property was acquired in a retail transaction as defined for sales tax purposes, regardless of the location of that transaction.

[IC 6-2.5-1-27](#) defines the term "tangible personal property" to include electricity.

However, a manufacturing exemption is found in [IC 6-2.5-5-3\(b\)](#), which states:

Except as provided in subsection (c), transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquired it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

A further explanation of this exemption requirement is found in [45 IAC 2.2-5-8\(c\)](#), which provides that Taxpayer's machinery, tools, and equipment qualify for the exemption if they are "an essential and integral part of an integrated process which produces" the electricity sold by Taxpayer.

Supplemental to the sales tax exemption noted above is the use tax exemption found in [IC 6-2.5-3-4\(a\)](#), which provides that the storage, use, and consumption of tangible personal property in Indiana is exempt from use tax if the property was acquired in a transaction that is wholly or partially exempt from sales tax and is used, stored, or consumed for the purpose for which it was exempted.

In the instant case, as part of each of its wind turbines, Taxpayer has acquired (or will acquire) the foundation, tower, nacelle, gearbox, generator, yaw motor, blades and related component parts for direct use in the direct production of electricity. Each of these parts is an essential and integral part of an integrated process which produces (or will produce) the electricity sold by Taxpayer. That being the case, Taxpayer's acquisition, storage, use and/or consumption of such tangible personal property falls within the ambit of the above exemption statutes and, accordingly, is exempt from sales/use tax.

ISSUE #1 – RULING

Taxpayer's acquisition, storage, use and/or consumption of tangible personal property which consists of or becomes a part of a wind turbine, including the foundation, tower, nacelle, gearbox, generator, yaw motors, blades, and related component parts, are exempt from sales and use tax pursuant to the manufacturing exemption found in [IC 6-2.5-5-3\(b\)](#) and the corresponding use tax exemption found in [IC 6-2.5-3-4\(a\)](#).

ISSUE #2 – DISCUSSION

Taxpayer requests that the Department rule whether Taxpayer's acquisition, storage, use and/or consumption of tangible personal property which consists of or becomes a part of a transformer in an electrical interconnection system for a wind turbine are exempt from sales and use tax under the manufacturing exemption.

[IC 6-2.5-5-3\(c\)](#) provides that the exemption found in [IC 6-2.5-5-3\(b\)](#), supra, "does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity." Taxpayer concedes that the exemption "does not extend to the part of the system that consists of distribution equipment or transmission equipment" such as conductors.

However, Taxpayer maintains that the transformer and its related components of the electrical interconnection system are "essential and integral to the efficient production of electrical energy for sale to public utilities or other customers" and, therefore, should fall within the ambit of the manufacturing exemption.

In support of its position, Taxpayer states that:

the transformer in an electrical interconnection system steps up the voltage from that generated by the generator in the wind turbine to the voltage used by the local utility. That is, it changes the electrical energy to a form usable by the utility (or another third party purchaser). The conductors, by contrast, simply distribute or transmit the electrical energy once it is in a form usable by a utility or other third party.

Generally, electric utilities recognize three stages in providing electricity to customers: (1) production, (2) transmission, and (3) distribution. "Production" refers to the generation of electricity. "Transmission" involves the transfer of electricity from generating sources to local distribution systems. "Distribution" involves the transfer of electricity from local distribution systems to the customer.

Despite Taxpayer's assertions to the contrary, the Department finds that the purpose of Taxpayer's use of a transformer to "step up" the voltage of the electricity it generates involves the economics of transmission and distribution, not production. Increasing the voltage following the production phase is solely designed to increase the efficient transmission and distribution of electricity, not change the character of the product. Indeed, before the electricity can be used by the ultimate customer, the voltage must be decreased or "stepped down." As such Taxpayer's use of transformers is not a continuation of the manufacturing process, but merely part of the transmission and distribution process.

Based on the foregoing, the Department finds that Taxpayer's acquisition, storage, use and/or consumption of transformers, as part of its electrical interconnection system, are not for direct use in the direct production of the electricity sold by Taxpayer. The transformers are not an essential and integral part of an integrated process which produces (or will produce) the electricity sold by Taxpayer. The transformers are part of the transmission and distribution, not production, of the electricity sold by Taxpayer. That being the case, Taxpayer's acquisition, storage, use and/or consumption of such tangible personal property does not fall within the ambit of the above exemption statutes and, accordingly, is not exempt from sales/use tax.

ISSUE #2 – RULING

Taxpayer's acquisition, storage, use and/or consumption of tangible personal property which consists of or becomes a part of a transformer in an electrical interconnection system for a wind turbine are not exempt from

sales and use tax pursuant to the manufacturing exemption found in [IC 6-2.5-5-3\(b\)](#) and the corresponding use tax exemption found in [IC 6-2.5-3-4\(a\)](#).

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

Department of State Revenue

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