

Letter of Findings Number: 04-20120362
Use Tax
For the Years 2008-2010

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ISSUE

I. Use Tax—Manufacturing Exemption.

Authority: IC § 6-2.5-5-3; [45 IAC 2.2-5-8](#).

Taxpayer protests the Department's assessment of use tax on a die oven.

STATEMENT OF FACTS

Taxpayer is a corporation doing business in Indiana. The Indiana Department of Revenue ("Department") audited Taxpayer and determined that Taxpayer did not self-assess use tax on various items. The Department assessed use tax on these items. Taxpayer protested a portion of the assessment, the Department conducted an administrative hearing, and this Letter of Findings results. Additional facts will be supplied as necessary.

I. Use Tax—Manufacturing Exemption.

DISCUSSION

Taxpayer protests the assessment of use tax on a die oven. Taxpayer's business consists of producing aluminum extrusions. The extrusions are produced by heating aluminum billets to several hundred degrees Fahrenheit. The billets are then forced through dies in presses to produce the desired shape or form.

In order to produce the aluminum extrusions, the dies themselves must be heated to several hundred degrees Fahrenheit. In order to heat the dies to the desired temperature, Taxpayer places the dies into a die oven. The die oven is located near the manufacturing presses; however, it is separate from the machinery. Cranes lift the dies and place the dies onto Taxpayer's presses, at which point Taxpayer and the Department acknowledge that manufacturing occurs. The issue is whether the die oven is considered to be directly used in manufacturing.

Under IC § 6-2.5-5-3(b):

Except as provided in subsection (c) [relating to electrical distribution and transmission equipment purchased by a public electric utility], transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

Department regulation [45 IAC 2.2-5-8\(c\)](#) provides that materials are directly used in the production process if "they have an immediate effect on the article being produced." In support of its argument, Taxpayer cites to [45 IAC 2.2-5-8\(c\)](#), example 2, which states:

The following types of equipment constitute essential and integral parts of the integrated production process and are, therefore, exempt. The fact that such equipment may not touch the work-in-process or, by itself, cause a change in the product, is not determinative.

- (A) Air compressors used as a power source for exempt tools and machinery in the production process.
- (B) An electrical distribution system, including generators, transformers, electrical switchgear, cables inside or outside the plant, and related equipment used to produce and/or supply electricity to exempt manufacturing equipment used in direct production.
- (C) A pulverizer for raw materials to be used in an exempt furnace to produce and/or supply energy to manufacturing equipment used in direct production.
- (D) Boilers, including related equipment such as pumps, piping systems, etc., which draw water, or produce and transmit steam to operate exempt machinery and equipment used in direct production.
- (E) A work bench used in conjunction with a work station or which supports production machinery within the production process.
- (F) Safety clothing or equipment which is required to allow a worker to participate in the production process without injury or to prevent contamination of the product during production.
- (G) An automated scale process which measures quantities of raw aluminum for use in the next production step of the casting process in the foundry.

Property has an immediate effect "if it is an essential and integral part of an integrated process which produces tangible personal property." However, [45 IAC 2.2-5-8\(g\)](#) provides also that:

The fact that particular property may be considered essential to the conduct of the business of manufacturing because its use is required by law or by practical necessity does not itself mean that the property "has an immediate effect upon the article being produced."

In this particular case, the Department acknowledges that the die oven is a necessary and crucial part of Taxpayer's manufacturing process. Without heated dies, Taxpayer's manufacturing processes could not continue.

However, the die oven does not have an immediate effect on the aluminum billets, which are the items used to produce the aluminum extrusions. Even though the die oven is critical to Taxpayer's process, its use—to heat dies prior to the dies' placement on Taxpayer's presses—is one step removed from the actual manufacturing process. Thus, the die oven is not directly used in direct production with the meaning of IC § 6-2.5-5-3 and [45 IAC 2.2-5-8](#).

FINDING

Taxpayer's protest is respectfully denied.

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