

## DEPARTMENT OF STATE REVENUE

Revenue Ruling # 2017-09ST  
November 30, 2017

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## ISSUES

Sales and Use Tax - Application of Manufacturing Exemption to Wind Farm

Authority: [IC 6-2.5-1-27](#); [IC 6-2.5-2-1](#); [IC 6-2.5-3-2](#); [IC 6-2.5-3-4](#); [IC 6-2.5-4-1](#); [IC 6-2.5-5-3](#); [45 IAC 2.2-5-8](#); Letter of Findings 99-0228 (April 1, 2002), 25 Ind. Reg. 2333; Letter of Findings 09-1045 (November 1, 2010) 20101124 Ind. Reg. 045100695NRA; Revenue Ruling 2009-06ST (June 10, 2009), 20090624 Ind. Reg. 045090463NRA; Revenue Ruling, 2012-02ST (July 27, 2012), [20120829-IR-045120487NRA](#); Black's Law Dictionary (10th ed. 2014).

A taxpayer (the "Developer") is seeking a ruling as to whether Indiana sales or use tax laws apply to the acquisition, storage, use, and consumption of the machinery, tools, equipment, and component parts which the Developer uses to construct and develop its wind farms. Specifically, the Company seeks a ruling regarding the following issues:

1. Whether Developer's acquisitions of wind turbines, including pads, towers, nacelles, rotors, blades, and all other equipment integrated with and attached to the above items are exempt from sales and use tax.
2. Whether Developer's acquisition of its collection system, including padmount transformers and their foundations, collection cables, and the processing substation (including its foundation, transformers and related equipment installed therein) are exempt from sales and use tax.
3. Whether Developer's acquisitions of equipment used to monitor and/or control wind characteristics and turbine performance in the manufacturing process are exempt from sales and use tax in the same proportion as the equipment is used as part of an exempt function.

## STATEMENT OF FACTS

Developer intends to construct and operate a wind farm in Indiana. In pertinent part, Developer provides the following information to support its request:

Developer intends to construct a commercial wind farm in rural Indiana. Developer does not perform transmission or distribution services; it will sell its electric output to a public utility at a grid interconnect. Developer's wind farm functions as a single integrated facility, and includes (1) turbines; (2) a collection system; and (3) monitoring and control equipment, each discussed below.

## A. Turbines

Wind turbines harness kinetic wind energy and use it to power electric generators. Wind turbines have several major components. Tubular towers are secured to specially engineered concrete pads designed to support and anchor turbines to the ground. A pod-shaped protective housing, referred to as a nacelle, is mounted on top of the tower. A nacelle contains a gearbox, a generator, motors that face blades into the wind and adjust their pitch, and equipment for monitoring, control, communication, cooling, meteorology, and maintenance. Blades are attached to a rotor and drive shaft mounted to the front of the nacelle.

Tubular towers are secured to specially engineered concrete pads reinforced by large metal cages designed to support and anchor turbines to the ground ("**Turbine Foundations**"). The Turbine Foundations house grounding cables and collection cables that are essential to the production of electricity. These grounding cables and power cables are secured within conduit embedded into each Turbine Foundation. Grounding cables connect the nacelle and tower to the earth through a heavy copper ring that provides direct grounding contact with the soil; depending upon soil conditions this ring is sometimes supplemented by copper rods. The grounding cables, copper ring, and rods are part of an integrated grounding system necessary to discharge electric power faults (*i.e.*, errant electric currents) created by lightning, component failure, improper

splicing, and other routine hazards of wind electricity generation. The collection cables serve as a channel through which work-in-process electricity flows from each wind turbine to a processing substation.

### B. Collection System

Electricity flowing from turbine generators is unstable and does not meet the public utility's voltage specifications. Developer must further process the electricity before it can sell it to the public utility. Therefore, Developer will construct a collection system to collect turbine generator electric output to a central processing substation where it will process the electricity to a finished product. The collection system begins within the nacelle of each turbine, where a transformer steps up the voltage of current generated by the turbine (at approximately 600 volts) to 34,500 volts. A network of underground collection cables carries the current to the central processing substation. These cables are located within the wind farm site and are only used for intraplant conveyance of unfinished current.

The processing substation, which will be shared with another wind farm, houses transformers and related equipment that stabilize the current and step up its voltage from 34,500 volts to 345,000 volts. The processing substation may also house capacitors, dynamic var devices, and related equipment used to meet the public utility's specifications and circuit breakers and switchgear used to protect sensitive components.

### C. Monitoring and Control Equipment

Developer will install equipment, including underground fiber optic cables, at the wind farm enabling it to monitor wind characteristics and turbine performance and to make necessary adjustments. Fiber optic cables will link each turbine to Developer's systems for monitoring and controlling turbine performance. These cables feed information, such as wind speed, wind direction, and turbine output to Developer's control stations. Developer uses information provided by these cables to monitor its electricity generation and to make adjustments that optimize power production, such as adjusting blade angles, moderating power production from an individual turbine, or identifying and correcting turbine performance problems. Without this equipment, the wind farm could not efficiently generate electric power and would be susceptible to damage. Developer's fiber optic cables transmit data directly to and from individual turbines—these cables do not transmit data directly to or from grid infrastructure (*i.e.*, equipment associated with post-production activity). Developer uses data transmitted by fiber optic cables to monitor and control its facilities throughout the generation of power.

## DISCUSSION

Based on the foregoing facts, Developer requests that the Department determine that the following wind farm components qualify for the manufacturing exemption at [IC 6-2.5-5-3](#) from sales tax:

1. Wind turbines, including pads, towers, nacelles, rotors, blades, and all other equipment integrated with and attached to the above items;
2. The collection system, including padmount transformers and their foundations, collection cables, and the processing substation (including its foundation, transformers and related equipment installed therein); and
3. Monitoring and control equipment.

[IC 6-2.5-2-1\(a\)](#) imposes sales tax on retail transactions made in Indiana. [IC 6-2.5-4-1\(a\)](#) provides that "[a] person is a retail merchant making a retail transaction when the person engages in selling at retail." [IC 6-2.5-4-1\(b\)](#) provides:

A person is engaged in selling at retail when, in the ordinary course of the person's regularly conducted trade or business, the person:

- (1) acquires tangible personal property for the purpose of resale; and
- (2) transfers that property to another person for consideration.

An exemption from sales tax exists for certain transactions related to manufacturing. [IC 6-2.5-5-3\(b\)](#) provides:

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, including material handling equipment purchased for the purpose of transporting materials into such activities from an onsite location.

[IC 6-2.5-1-27](#) defines the term "tangible personal property" to include electricity. However, [IC 6-2.5-5-3\(c\)](#) provides that the exemption found in [IC 6-2.5-5-3\(b\)](#) "does not apply to transactions involving distribution equipment or transmission equipment acquired by a public utility engaged in generating electricity." 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.

More context on the exemption is provided by the Department's regulations. [45 IAC 2.2-5-8\(c\)](#) provides that machinery, tools, and equipment qualify for the exemption only if they have an "immediate effect" on the article produced and are "an essential and integral part of an integrated process which produces tangible personal property."

[45 IAC 2.2-5-8\(c\)\(2\)\(B\)](#) provides that "[a]n 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" represent essential and integral parts "of an integrated process which produces tangible personal property." However, this project does not involve the purchase of an electrical distribution system to supply electricity to manufacturing equipment. Rather, this project involves the purchase of an electrical collection system to collect and process electricity. The difference is the electrical collection system in the regulation is powering exempt manufacturing equipment, and thus is part of the integrated process producing tangible personal property, whereas tangible personal property in the form of electricity has already been produced before Developer's electrical processing equipment collects and processes it, and thus could be considered a postproduction activity.

Regarding preproduction and postproduction activity, [45 IAC 2.2-5-8\(d\)](#) further provides:

"Direct use in the production process" begins at the point of the first operation or activity constituting part of the integrated production process and ends at the point that the production has altered the item to its completed form, including packaging, if required.

Further, [45 IAC 2.2-5-8\(g\)](#) states:

Machinery, tools, and equipment which are used during the production process and which have an immediate effect upon the article being produced are exempt from tax. Component parts of a unit of machinery or equipment, which unit has an immediate effect on the article being produced, are exempt if such components are an integral part of such manufacturing unit. The fact that particular property may be considered essential to the conduct of the business of manufacturing because its use is required either by law or by practical necessity does not itself mean that the property "has an immediate effect upon the article being produced." Instead, in addition to being essential for one of the above reasons, the property must also be an integral part of an integrated process which produces tangible personal property.

### **Issue #1 - Discussion**

The Department has previously ruled that component parts of a wind turbine are exempt from sales and use tax pursuant to [IC 6-2.5-5-3](#). In Revenue Ruling 2009-06ST (June 10, 2009), 20090624 Ind. Reg. 045090463NRA, the Department ruled:

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\(a\)](#).

However, the Department's position regarding foundations requires clarification. In general, standard foundations consisting merely of poured concrete and reinforced with rebar have no immediate effect in a manufacturing process, as they are not an integral part of the integrated manufacturing process, even though they may be a practical necessity when supporting exempt machinery or equipment. [45 IAC 2.2-5-8\(g\)](#). More importantly, foundations themselves are not pieces of machinery, tools, or equipment, the types of tangible personal property to which [IC 6-2.5-5-3\(b\)](#) applies.

Neither "equipment" nor "machinery" (nor tools, for that matter) are defined in Title 6, Article 2.5 of the Indiana Code. They are also not defined in Title 45, Article 2.2 of the Indiana Administrative Code. Because Indiana sales tax law does not contain definitions for "equipment" and "machinery", the Department must look to other sources. Black's Law Dictionary (10th ed. 2014) defines a "machine" as "[a] device or apparatus consisting of fixed and moving parts that work together to perform some function." A foundation is not a device or apparatus, nor does it contain moving parts. Foundations are clearly not machinery. "Equipment," on the other hand, is defined in Black's Law Dictionary as "[t]he articles or implements used for a specific purpose or activity (esp. a business operation)." *Id.* The definition of "equipment" connotes that articles and implements are used by someone to achieve a goal. A foundation is inert, and while it may be used to support a structure and exempt equipment that are part of a manufacturing process, the foundation itself is not *used* to achieve that purpose like tangible personal property (such as an implement or article) is used. A standard foundation is not equipment, but even if one could stretch the definition of equipment to include foundations, foundations still have no immediate effect on electricity being generated, as they are not an integral part of the integrated manufacturing process, even though they may be a practical necessity. [45 IAC 2.2-5-8\(g\)](#).

More to the point, tools, machinery, and equipment are all examples of tangible personal property which could be purchased and used in an exempt manner as described in [IC 6-2.5-5-3](#). A standard foundation is not tangible personal property. Instead, it is real property. "Real property" is defined as "[l]and and anything growing on, attached to, or erected on it, excluding anything that may be severed without injury to the land." *Id.* Foundations are attached to or erected on the land, and the land would indeed be "injured" in order to remove a foundation. "Personal property," conversely, is defined as "[a]ny movable or intangible thing that is subject to ownership and not classified as real property." *Id.* A standard foundation, unlike the work bench in the example found in the Department's regulations ([45 IAC 2.2-5-8\(c\)\(2\)\(E\)](#)), is not movable, and again, would more properly be classified as real property.

With that in mind, Developer explains why the foundation of the wind turbine is different than a standard foundation and why it should be exempt. In support of its position that the tower's foundation should be exempt, Developer states that "the [Turbine] Foundation is necessary both to house . . . grounding and collection cables (including the copper grounding ring and rods) and to support the exempt production machinery in each wind turbine." Furthermore, Developer cites to [45 IAC 2.2-5-8\(c\)\(2\)](#), which provides examples of "types of equipment [that] constitute essential and integral parts of the integrated production process and are, therefore, exempt" noting that "[t]he fact that such equipment may not touch the work-in-process or, by itself, cause a change in the product, is not determinative." Amongst the examples of exempt equipment is a "work bench," which is exempt when "used in conjunction with a work station or which supports production machinery within the production process." [45 IAC 2.2-5-8\(c\)\(2\)\(E\)](#).

Developer cites to two Letters of Findings issued by the Department which found that foundations are exempt. The first, Letter of Findings 09-1045 (November 1, 2010) 20101124 Ind. Reg. 045100695NRA, analyzed the foundations using the example of a work bench above, finding that:

Since a work bench used in conjunction with a work station or which supports production machinery within the production process is exempt equipment for sales and use tax purposes and, since sales and use taxes only apply to the transfer of tangible personal property, it stands to reason that such a work bench is tangible personal property. The foundations in question in this protest are analogous to the work bench discussed in [45 IAC 2.2-5-8\(c\)](#) example (2)(E) . . . While ordinary building foundations are clearly not eligible for the manufacturing exemption, the foundations at issue here support equipment which is either production machinery or which moves materials within the production process. As provided by IC § 6-2.5-5-3 and [45 IAC 2.2-5-9](#), that equipment is exempt. Therefore, the foundations at issue qualify for the manufacturing exemption as provided by [45 IAC 2.2-5-8\(c\)](#) example (2)(E).

Developer maintains that like the taxpayer in this Letter of Findings, the wind turbine foundations "support equipment which is . . . production machinery," and therefore should qualify for the manufacturing exemption.

The second Letter of Findings (99-0228 (April 1, 2002), 25 Ind. Reg. 2333) similarly found that "Foundations constructed specifically to support exempt manufacturing equipment . . ." are also exempt as equipment acquired "for the direct use[] in the direct production . . . of other tangible personal property." However, the Letter of Findings went on to state that "[f]oundations not constructed specifically for exempt equipment—that is not necessary and integral to the operation of the exempt equipment—will be characterized as improvements to real estate."

Developer also cites to another Revenue Ruling, 2012-02ST (July 27, 2012), [20120829-IR-045120487NRA](#), where the Department found that the foundations of a solar energy plant that "provide[s] platform and support for electrical equipment including switchgear, inverters, transformers, disconnect switch and protective device equipment" qualified for the manufacturing exemption as "an essential and integral part of an integrated processes which produces . . . the electricity sold by Taxpayer."

Developer maintains that the Department's past guidance shows that foundations which support exempt production machinery qualify for the manufacturing exemption, and that this guidance also establishes that foundations are a type of "machinery, tool[,], or equipment" that are integral to the integrated manufacturing process. Developer asserts that if foundations were categorically incapable of being "machinery, tools, or equipment" the Department would not have found these foundations qualified for the manufacturing exemption in the past.

Developer further reiterates that the Turbine Foundations house grounding cables, collection cables, metal support cages, heavy copper grounding rings, and rods, all of which are critical components of the integrated power generation system, and therefore in Developer's view the Turbine Foundations even more clearly qualify for the manufacturing exemption than the foundations found to be exempt above by virtue of their similarity to work benches.

The Department concurs. Developer's Turbine Foundations go beyond merely supporting exempt machinery and equipment. If the Turbine Foundations merely supported the exempt machinery and equipment, the Turbine Foundations would not be considered equipment that was part of the production process. However, Developer's Turbine Foundations also house heavy copper grounding rings, holding the rings in place and assisting in the grounding of the wind turbine, which is an essential part of the integrated electrical production process. This shows that Developer's Turbine Foundations are different than standard foundations, and that it is directly used in the direct production of electricity. The Turbine Foundations are a cohesive piece with the grounding rings, which performs an essential part of the integrated electrical production process. Therefore, the tangible personal property purchased to construct Developer's Turbine Foundations are exempt from Indiana sales and use tax.

#### **Issue #1 - Determination**

Based on the facts as presented by Developer and the foregoing authority, Developer's acquisitions of wind turbines, including towers, nacelles, rotors, blades, and all other equipment integrated with and attached to the above items are exempt from Indiana 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\(a\)](#).

The Turbine Foundations, as described in this Revenue Ruling, have an immediate effect on the electricity being generated, because, in addition to supporting the turbine so that it can operate properly, they are part of the integrated process in that it acts to ground the tower along with the heavy copper grounding rings which it houses. Therefore, the tangible personal property purchased to construct Developer's Turbine Foundations are also exempt from Indiana sales and use tax.

#### **Issue #2 - Discussion**

The Department also previously ruled in 2009-06ST that transformers used by wind farms to step up the voltage of electrical current generated by wind turbines are subject to sales tax and not exempt pursuant to the manufacturing exemption. Noting that, pursuant to [IC 6-2.5-5-3\(c\)](#), the manufacturing exemption does not extend to distribution or transmission equipment acquired by a public utility engaged in generating electricity, the Department specifically addressed the issue of "step up" transformers in Revenue Ruling 2009-06ST:

[T]he 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.

Developer requested that the Department reconsider its position regarding its "step up" transformers for the following reasons:

(1) generated electricity is not in its "completed form" until transformers have stepped up its voltage and

- conditioned it to Public Utility's specifications;
- (2) transformers generate new current;
- (3) regulatory agencies classify step-up transformers as part of the generation system; and
- (4) most other states that have addressed the taxability of transformers have concluded that they are directly used in generating and processing electricity for sale.

In support of its first point, Developer pointed to the language in [45 IAC 2.2-5-8\(d\)](#), which again states:

"Direct use in the production process" begins at the point of the first operation or activity constituting part of the integrated production process and ends at the point that the production has altered the item to its **completed form**, including packaging, if required. (**Emphasis added**).

Based on such authority, Developer argued that electricity is not in its completed form until its voltage is fully stepped up, stating that "600-volt current is a different 'manifestation' or form of electric current than 34,500-volt and 345,000-volt current. Although the current's substance—electrons—remains the same, its form is different."

Developer also stated that it steps up the electric current to meet the specifications of Public Utility, which, Developer states, "will not purchase current without sufficient voltage to enable it to transmit and distribute the current to its customers." Developer argued that "[t]he fact that a customer desires a product to be manufactured to a particular form to prevent loss in transportation, however, should not cause manufacturing the product to that form to be disregarded as nonexempt transportation." In summary, Developer argued that "[b]ecause transformers are necessary to process current from its raw form to its complete form—the form specified by Public Utility—they should qualify for the Manufacturing Exemption."

Regarding the second point that there is a generation of "new current," Developer explains that transformers "use existing current to create a magnetic field that induces, or generates, new current with higher or lower voltage," which, according to Developer, is essentially the same process that generators use to create current - electromagnetic induction. This, in Taxpayer's opinion, is a production activity involving the generation of new current, and not the alteration of existing current.

To its third point, Developer provided a copy of a diagram published by the United States Department of Energy, wherein it indicates that step-up transformers are part of the "generation facility."

Finally, Developer cites to various States' statutes, regulations, and rulings, all of which demonstrate that these States view step-up transformers and collection systems as exempt under their manufacturing exemptions from their respective sales tax laws.

Developer also maintains that the foundations of the processing substation should be exempt. While noting that this substation foundation is less directly involved in the generation of electricity than the Turbine Foundations, Developer notes that the substation foundation is a critical part of the processing substation, in that the substation could not remain structurally stable without it. Developer states that because the entire processing substation is an integrated piece of manufacturing equipment, it views the substation foundation as more analogous to the foundation for production machinery than an ordinary building foundation (as in Letter of Findings 09-1045).

However, in this case, the substation foundation does not have an immediate effect on the production of electricity, and therefore is not directly used in the direct production of electricity. The substation foundation is a structural necessity, but merely supports the equipment. It is not the intent of the statute that all foundations be exempt if exempt equipment stands or is mounted on the foundations. The substation foundation would have to do more than just support the equipment in order to be exempt. Further, unlike a work bench, which is tangible personal property, the substation foundation in this case is a part of the real property and covers an area that includes exempt and non-exempt machinery and equipment, and so is not constructed specifically for exempt equipment. For these reasons, tangible personal property purchased to construct the foundation of the substation would not be exempt.

## **Issue #2 - Determination**

Based on the facts as presented by Developer and the foregoing authority, Developer's collection system does not constitute a postproduction activity. The electricity is not in its completed form until it goes through the collection system; further, the electricity is still being generated as part of an integrated pre-distribution process. As such, acquisitions of its collection system, including padmount transformers, collection cables, and the processing substation (including the transformers and related equipment installed therein) are exempt from

Indiana 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\(a\)](#). Previous Revenue Rulings which have held that step-up transformers are not exempt when they are part of an integrated, pre-distribution electrical manufacturing system should be disregarded to the extent that they held otherwise.

However, tangible personal property purchased to construct the substation foundation is not exempt from Indiana sales and use tax because, as discussed above, the foundation has no immediate effect on the electricity being generated. The substation foundation merely supports the equipment and machinery. It is a standard foundation that is a practical necessity and not part of the integrated manufacturing process. Furthermore, the substation foundation is real property that is not a piece of machinery, a tool, or equipment. As such, previous letters issued to Developer or other similarly situated taxpayers should be disregarded to the extent that they held otherwise.

### Issue #3 - Discussion

Regarding the control and monitoring equipment, Developer maintains that "[c]omputers and other equipment used to control and monitor manufacturing operations qualify for the Manufacturing Exemption" pursuant to [45 IAC 2.2-5-8\(c\)\(5\)](#) and that its "equipment used to monitor and/or control wind characteristics, turbine performance, and grid operations qualify for the Manufacturing Exemption." Regarding the fiber optic cables, Developer states that:

Developer's fiber optic cables will link each turbine to Developer's systems for monitoring and controlling turbine performance. These cables feed information, such as wind speed, wind direction, and turbine output to Developer's control stations. Developer uses information provided by these cables to monitor its electricity generation and to make adjustments that optimize power production, such as adjusting blade angles, moderating power production from an individual turbine, or identifying and correcting turbine performance problems.

The Department's regulation, found at [45 IAC 2.2-5-8\(c\)\(5\)](#), provides another example of a piece of equipment, a computer, that may be exempt under [IC 6-2.5-5-4](#):

A computer is used to control and monitor various aspects of the plating and surface-treatment operations . . . The computer is located in a separate room in a different part of the plant from the plating and surface-treatment operations but is connected to the equipment comprising those operations by means of electrical devices. The computer equipment, including related terminals, printer, and memory, data storage, and input/output devices, is exempt because its use in this manner is an integral and essential part of the integrated production process.

[45 IAC 2.2-5-8\(c\)\(6\)](#) further provides:

A computer is used to process accounting, personnel, and sales data. The computer is taxable because its use in this manner is not an integral and essential part of the integrated production process.

Finally, [45 IAC 2.2-5-8\(c\)\(7\)](#) provides:

A computer is used 40% of the time to perform the functions described in Example (5) and 60% of the time to perform the functions described in Example (6). The taxpayer is entitled to an exemption for the computer equipment, including related equipment such as that described in Example (5), equal to 40% of the gross retail income attributable to the transaction or transactions in which the computer equipment was purchased.

Developer's control stations are analogous to the computer in the example above. Developer's fiber optic cables transmit information between the turbines and Developer's control stations; these cables are the "electrical devices" that "connect[]" Developer's control stations "to the equipment comprising [electricity production] operations." *Id.*

### Issue #3 - Determination

Based on the facts as presented by Developer and the foregoing authority, Developer's acquisitions of equipment, including fiber optic cables, used to monitor and/or control wind characteristics and turbine performance in the manufacturing process are exempt from Indiana 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\(a\)](#), in the same proportion as the equipment is used as part of an exempt function. However, Developer's acquisitions of equipment and

materials used in grid operations are subject to Indiana sales and use tax.

### RULING

1. Based on the facts as presented by Developer and the foregoing authority, Developer's acquisitions of wind turbines, including towers, nacelles, rotors, blades, and all other equipment integrated with and attached to the above items are exempt from Indiana 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\(a\)](#).

Tangible personal property purchased to construct Developer's Turbine Foundations are also exempt. The Turbine Foundations have an immediate effect on the electricity being generated, because they are part of the integrated process in that it acts to ground the tower along with the heavy copper grounding rings which it houses.

2. Based on the facts as presented by Developer and the foregoing authority, Developer's collection system does not constitute a postproduction activity. The electricity is not in its completed form until it goes through the collection system; further, the electricity is still being generated as part of an integrated pre-distribution process. As such, acquisitions of its collection system, including padmount transformers, collection cables, and the processing substation (including the transformers and related equipment installed therein) are exempt from Indiana 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\(a\)](#). Previous Revenue Rulings which have held that step-up transformers are not exempt when they are part of an integrated, pre-distribution electrical manufacturing system should be disregarded to the extent that they held otherwise.

However, the substation foundation is not exempt, because the foundation has no immediate effect on the electricity being generated. The substation foundation merely supports the equipment and machinery. It is a standard foundation that is a practical necessity and not part of the integrated manufacturing process. Furthermore, the substation foundation is real property that is not pieces of machinery, tools, or equipment. As such, previous letters issued to Developer or other similarly situated taxpayers should be disregarded to the extent that they held otherwise.

3. Based on the facts as presented by Developer and the foregoing authority, Developer's acquisitions of equipment, including fiber optic cables, used to monitor and/or control wind characteristics and turbine performance in the manufacturing process are exempt from Indiana 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\(a\)](#), in the same proportion as the equipment is used as part of an exempt function. However, Developer's acquisitions of equipment and materials used in grid operations are subject to sales and use tax.

### CAVEAT

The determinations set forth above are based on the Department's application of state law, court decisions, and Indiana sales and use tax law and regulations to the facts presented by Developer. The above determinations issued by the Department are based on the assumption that the facts and circumstances as stated by Developer are correct. The Department will not reverse, challenge, or take actions adverse to these determinations unless it is required to do so as a result of changes of applicable law, including statutes and court decisions, as well as any misstatement of facts or circumstances as presented by Developer.

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