

DEPARTMENT OF STATE REVENUE

Revenue Ruling # 2018-01ST
September 6, 2018

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ISSUES

Sales and Use Tax - Material Handling & Packaging Equipment

Authority: [IC 6-2.5-2-1](#); [IC 6-2.5-3-2](#); [IC 6-2.5-5-3](#); [45 IAC 2.2-5-8](#); [45 IAC 2.2-5-10](#); *Indiana Dep't of State Revenue, Sales Tax Division v. RCA Corp.*, 310 N.E.2d 96 (Ind. Ct. App. 1974); *Indiana Dept. of State Revenue v. Kimball Int'l Inc.*, 520 N.E.2d 454 (Ind. Ct. App. 1988).

A taxpayer ("Company") seeks a ruling regarding whether the purchase of material handling machinery and equipment used in its production process, and a bagging line used to package the product, are subject to Indiana sales or use tax.

STATEMENT OF FACTS

Company is a multinational corporation with United States headquarters in Indiana. Company provides the following information regarding the transactions at issue:

I. Raw Materials:

[Company] receives raw materials for its production process via bulk rail car, bulk truck, and semi-tractor trailer. Once the raw materials are received at the plant they are transported to either raw material storage or they are transported directly to one of the plant's 8 production lines. Raw materials that are not directly transported to the production lines are stored in silos or in raw materials storage areas within the plant.

[Company] has 6 storage silos on site to store raw materials for production. Storage silos 1, 5, and 6 are filled by pumping from the bulk rail cars to the storage silos. Storage silos 2, 3, and 4 can only be filled by bulk trucks. All production lines except P2 can pull raw materials directly from rail car or the storage silos to the 4th floor mixing bins. The movement of raw materials from each source is summarized below:

A. Bulk Rail Car:

Raw materials that are received via bulk rail car are transported to either the mixing bins on the 2nd and 4th floors via a network of piping equipment or they are transported via to raw material storage silos 1, 5, or 6 via piping equipment. Raw materials are stored in silos 1, 5, and 6 until they are ready to be released for production. Piping equipment is used to pump raw materials from these storage silos to the mixing bins on the 2nd and 4th floors.

B. Bulk Truck:

Raw materials that are received via bulk truck are transported to raw material storage silos 2, 3, or 4 where they are temporarily stored until they are ready to be released for production. Piping equipment is used to pump raw materials from these storage silos to the mixing bins on the 2nd and 4th floors.

C. Semi-Tractor Trailer:

Raw materials that are received via semi-tractor trailer arrive in boxes and are unloaded via forklifts at [Company's] receive docks. The materials are transported to raw materials storage areas and staged for production. The materials are then transported to the production lines via pumping and piping equipment, fork lifts, wheeled carts, conveyors, cranes, raw material loaders, talc loaders, talc feeders, and a freight elevator.

II. Materials Processing:

The production process begins when raw materials stored in the mixing bins are fed to scales to be weighed and measured. Depending on the product being produced, some materials are first mixed in a tub mixer before being weighed and measured. After weighing and measuring, the materials are fed into high speed mixers. The mixed batch then proceeds to holding bins where additional mixing occurs. Prior to moving to the extruders, other ingredients may be added, such as talc. Talc is added on the second floor manually using a talc loader or talc feeder. Once the materials are mixed to produce a batch, the batch is then heated and forced through extruders to produce strands. The strands are then washed, cooled, and then cut into pellets per customer specifications. Scrap materials are transported to the re-grinder and re-pelletized. The recycled pellets are then transported to the 2nd or 4th floors to be blended with virgin materials to produce new products for sale. To provide a visual of the production process, we have provided general process schematics for each production line in Exhibit I of this Request for Revenue Ruling.

III. Quality Assurance Testing & Inspection:

Prior to final packaging, the product is tested for quality assurance in [Company's] QC laboratory. [Company] operates a QC laboratory that tests and inspects its product to verify that the product meets customer specifications. This equipment includes, but is not limited to, a Sortex Vision System, an Instron Tensile Flex Machine, and a QC Molding Machine. This laboratory equipment was deemed tax exempt by the Department in Supplemental LOF # 04-20090541.

IV. Packaging and Shipping Finished Goods:

Once the product has passed quality assurance inspection, it is prepared for shipment to [Company's] customers either via truck or rail car. This preparation process includes using metal detectors and magnets to detect and remove any metals that have contaminated the product during the production process. Pellets shipped via truck are packaged in either large Gaylord containers or they are packaged in white plastic bags, depending on the customer's requirements.

A. Finished Product Shipped in Gaylord Containers:

Gaylord containers are large heavy duty cardboard containers that rest on wooden pallets. Prior to loading product into Gaylord containers, specialty plastic bags are first placed inside the containers to be filled. Once the plastic bags are filled, the bags are sealed to prevent contamination or loss of product during shipment. After the plastic bags are sealed, a cardboard lid is placed over the open Gaylord containers and secured in place. A bar-coded shipping label is attached to each Gaylord container which provides product information as required by the customer. Gaylord containers are strong enough to be stacked on top of each for storage and shipment to customers.

B. Finished Product Shipped in White Plastic Bags:

Product shipped in white plastic bags are filled by [Company's] bagging lines. Once the bags of pellets are filled and palletized via the bagging line, they are stored in the warehouse until they are ready to be loaded onto trucks for shipment to customers.

C. Finished Product Shipped in Rail Car:

Pellets that are shipped to customers via rail car are transported to the rail cars via a network of piping equipment. Transporting pellets in this manner causes the pellets to become damaged, forming "snakeskin" on the pellets. The "snakeskins" must be removed or they will be rejected by the customers. [Company] operates de-dusting equipment that removes the "snakeskins" from the pellets. The de-dusting equipment was deemed tax exempt in LOF # 04-20090541. Once the finished pellets are loaded into rail cars, they are shipped to the customer via rail.

Company notes that it has twice been under a sales and use tax audit, although it is not currently under audit. The first audit (covering calendar years 2006 and 2007) determined that Company's production process begins at the point where raw ingredients are weighed and measured for mixing a batch. All machinery and equipment prior to this process (including piping equipment from raw material storage to the mixing bins, a freight elevator used to transport raw materials to the mixing bins, carts, forklifts, and talc chutes that feed talc to the mixing bins, and the mixing bins) was deemed to be pre-production and consequently subject to tax.

DISCUSSION

Company requests the Department to issue a Ruling regarding the application of sales and use tax for the purchases of the material handling equipment and bagging equipment listed within this request.

Indiana imposes an excise tax called "the state gross retail tax" (or "sales tax") on retail transactions made in Indiana. [IC 6-2.5-2-1\(a\)](#). A person who acquires property in a retail transaction (a "retail purchaser") is liable for the sales tax on the transaction. [IC 6-2.5-2-1\(b\)](#). Indiana also imposes a complementary excise tax called "the use tax" on "the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction." [IC 6-2.5-3-2\(a\)](#).

In general, all purchases of tangible personal property are subject to sales and/or use tax unless an enumerated exemption from sales and/or use tax is available. Property is exempt from use tax if such property is also exempt from sales tax under [IC 6-2.5-3-4\(a\)\(2\)](#), if ". . . the property was acquired in a transaction that is wholly or partially exempt from the state gross retail tax under any part of [IC 6-2.5-5](#), except [IC 6-2.5-5-24\(b\)](#), and the property is being used, stored, or consumed for the purpose for which it was exempted."

Indiana law provides the standard by which tax exemptions are to be interpreted. In applying any tax exemption, the general rule is that "tax exemptions are strictly construed in favor of taxation and against the exemption." *Indiana Dept. of State Revenue v. Kimball Int'l Inc.*, 520 N.E.2d 454, 456 (Ind. Ct. App. 1988). A statute which provides a tax exemption, however is strictly construed against the taxpayer. *Indiana Dep't of State Revenue, Sales Tax Division v. RCA Corp.*, 310 N.E.2d 96, 97 (Ind. Ct. App. 1974). "[W]here such an exemption is claimed, the party claiming the same must show a case, by sufficient evidence, which is clearly within the exact letter of the law." *Id.* at 100-101.

[IC 6-2.5-5-3](#) provides an exemption for manufacturing machinery, tools, and equipment in pertinent part as follows:

(b) Except as provided in subsection (d), transactions involving manufacturing machinery, tools, and equipment, **including material handling equipment purchased for the purpose of transporting materials into activities described in this subsection from an onsite location**, 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. (**Emphasis added**).

Company notes that effective January 1, 2016, Indiana amended this statute to expand the manufacturing exemption to include the material handling equipment. Company believes this applies to the transport of raw materials from where raw materials are stored. Company states that it utilizes various types of material handling equipment to transport raw materials from where the raw materials are stored to the first step of production. Based on this change in the statute, Company requests a determination as to whether the following tangible personal property qualifies for exemption from Indiana sales and use tax as it relates to Company's production process:

- Piping and vacuuming equipment including motors, compressors, and related machinery and equipment used to convey/transport raw materials from raw material storage (silos, Gaylord containers, raw material loaders) to the mixing bins for production.
- Piping and vacuuming equipment including motors, compressors, and related machinery and equipment used to transport raw materials from the bulk rail cars to the mixing bins.
- Piping and vacuuming equipment used to convey materials from bulk rail car and bulk truck to storage silos.
- Mixing bins that hold and feed the raw materials to the scales for weighing and measuring.
- Forklifts, wheeled carts, cranes, and conveyors used to transport raw materials from raw materials storage to mixing bins and raw material loaders for production.
- Freight elevator used to transport raw materials from raw materials storage, which is located on the first floor, to the upper floors where measuring, mixing, and blending operations take place. This freight elevator is primarily used to transport raw materials, not people or equipment.
- Chutes and hoppers used to introduce raw materials into the mixing bins for production.
- Talc hand loaders and talc feeders that feed talc into the mixed batch of materials on the second floor.
- Scales used to weigh and measure raw materials for blending per product specifications.

More context on the exemption at [IC 6-2.5-5-3](#) 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."

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.

-EXAMPLE-

(1) The production of pharmaceutical items is accomplished by a process which begins with weighing and measuring out appropriate ingredients, continues with combining and otherwise treating the ingredients, and ends with packaging the items. **Equipment used to transport raw materials to the manufacturing plant is employed prior to the first operation or activity constituting part of the integrated production process and is taxable.** Weighing and measuring equipment and all equipment used as an essential and integral part of the subsequent manufacturing steps, through packaging, qualify for exemption. Equipment which loads packaged products from the packaging step of production into storage, or from storage into delivery vehicles, is subject to tax. (**Emphasis added**).

Regarding storage equipment, [45 IAC 2.2-5-8\(e\)](#) states:

Tangible personal property used in or for the purpose of storing raw materials or finished goods is subject to tax except for temporary storage equipment necessary for moving materials being manufactured from one (1) machine to another or from one (1) production step to another.

(1) Temporary storage. Tangible personal property used in or for the purpose of storing work-in-process or semi-finished goods is not subject to tax if the work-in-process or semi-finished goods are ultimately completely produced for resale and in fact resold.

(2) Storage containers for finished goods after completion of the production process are subject to tax.

(3) Storage facilities or containers for materials or items currently undergoing production during the production process are deemed temporary storage facilities and containers and are not subject to tax.

-EXAMPLES-

...

(2) Parts undergoing various machining operations are transported from a machine operation to a storage rack where they are held for periods of time, as required by the processing schedule for the next machine operation in the integrated production process. The length of time required for storage in the processing schedule is not determinative. As the processing schedule dictates, the parts are removed from the storage racks and transported to the next machine operation. The storage racks are exempt.

(3) Finished goods are placed in the packages in which they will be delivered to customers, and the packages are loaded onto storage pallets which are used only in a finished goods storage area. **The pallets are taxable.**

(4) A metal and alloy manufacturer pulverizes raw materials for use in an exempt furnace. **Weigh bins utilized for the temporary storage of the exempt materials after pulverization and prior to use in the exempt furnace are exempt.**

(5) Replacement parts for manufacturing equipment are kept in storage bins in the plant "store". The storage bins are taxable because they do not store work-in-process or semi-finished goods.

(**Emphasis added**).

As the exemption applies to transportation equipment, [45 IAC 2.2-5-8\(f\)](#) provides:

(1) Tangible personal property used for moving raw materials to the plant prior to their entrance into the production process is taxable.

...

(3) Transportation equipment used to transport work-in-process or semi-finished materials to or from storage is not subject to tax if the transportation is within the production process.

...

-EXAMPLES-

...

(2) A metal and alloy manufacturer pulverizes raw materials for use in an exempt furnace. Weigh bins are utilized for the temporary storage of the exempt materials after pulverization and prior to use in an exempt furnace. **Transportation equipment used to transport the pulverized raw material to and from the**

weigh bins is exempt.

(3) A forklift is used exclusively to move work-in-process from a temporary storage area in a plant and to transport it to a production machine for processing. Because the forklift functions as an integral part of the integrated system comprising the production operations, it is exempt.

(4) A forklift is used exclusively to move finished goods from a storage warehouse and to load them on trucks for shipment to customers. The forklift is taxable because it is used outside the integrated production process.

(5) A forklift is regularly used 40% of the time for the purpose described in Example (3) and 60% of the time for the purpose described in Example (4). The taxpayer is entitled to an exemption equal to 40% of the gross retail income attributable to the transaction in which the forklift was purchased.

(10) A crane is used to unload a barge delivering raw materials to a steel plant where the raw materials are stockpiled in a storage yard adjacent to the plant. The crane is taxable.

(11) A crane is used to move stockpiled materials to the next step of production for processing. Stockpiling allows moisture to drain and evaporate from washed stone, thereby reducing moisture levels to a standard generally acceptable to stone purchasers. The crane is exempt.

(12) A crane is used 40% of the time for the purpose described in Example (8), and 60% of the time to move raw materials from the stockpile to a production machine for processing. The taxpayer is entitled to an exemption equal to 60% of the gross retail income attributable to the transaction in which the crane was purchased.

(Emphasis added).

Further, [45 IAC 2.2-5-8\(g\)](#) provides a detailed explanation of what it means for equipment to have an immediate effect upon the article being produced:

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.

The purpose of the amendment adding the "material handling equipment" language into [IC 6-2.5-5-8](#) was to exempt such equipment that was used to transport materials during the production process from different buildings on an onsite location. [IC 6-2.5-5-8](#) still requires that any equipment, including material handling equipment, to be directly used in the direct production of tangible personal property for sale in order to be exempt. Thus, material handling equipment would not be exempt if it transported raw materials prior to its introduction into the production activity or after the product was completed. Further, the equipment must have an immediate impact on the article produced.

With this information in mind, the piping and vacuuming equipment used to convey materials from bulk rail car and bulk truck to storage silos would be taxable and not eligible for the exemption, because they are used in a preproduction activity that has no immediate effect on the article being produced. Similarly, the freight elevator used to transport raw materials from raw materials storage to the upper floors where measuring, mixing and blending operations take place are not exempt, because the elevator doesn't deliver the materials directly to the production process, but instead into the step before the introduction into the production process. Therefore, the elevator does not have an immediate impact on the article produced and is not exempt.

On the other hand, piping and vacuuming equipment (including motors, compressors, and related machinery and equipment) used to convey or transport raw materials from raw material storage to mixing bins, or from bulk rail cars to mixing bins, are exempt, because they are used to deliver the materials directly into the production process, so they would have an immediate impact on the article being produced. Mixing bins and scales used to weigh and measure raw materials are directly used in the direct production process, as are forklifts, wheeled carts, cranes, conveyors, chutes, hoppers, talc hand loaders, and talc feeders, as they introduce materials into the production process. However, if forklifts, wheeled carts, cranes, and conveyors are used to transport raw materials from raw materials storage to raw material loaders, this would be a preproduction activity, as it is the loaders that may be used to transport raw materials into the production process, so this equipment would be one step removed from the production process.

Turning to the issue of the bagging line, Company states that this equipment is used to package finished pellets into individual white plastic bags as required by its customers. Once the bags are filled, they are sealed shut and conveyed to a palletizer. The palletizer stacks the sealed bags onto pallets for shrink-wrapping. To prevent damage to the bags during shipment, the bags are surrounded with thick cardboard on all four sides. Cardboard caps are also placed on the top and bottom of the pallets for additional protection.

Company points to [45 IAC 2.2-5-8\(d\)](#), which again states the following:

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).

Company also refers to Letter of Findings No. 04-20080514 (August 26, 2009, [20090826-IR-045090663NRA](#)), in which the Department issued a determination to a manufacturer of bottled products exempting from Indiana sales tax a box turner and palletizer used in the taxpayer's production process. The taxpayer produced drinks and filled them into bottles. After filling, the bottles were capped and sent to cooling tunnels. Cooled bottles were then labeled and placed in cases. The cases were then sealed and labeled and transferred through a wall to the finished goods area where they were palletized and shrink-wrapped. The box turner conveyor turned the boxed products to allow for labeling. The Department determined that the palletizer fell within the production process and therefore qualified for exemption. The box turner conveyor was entitled to the same exemption since its use in the process preceded that of the palletizer. The shrink wrap machine was deemed taxable because its use occurred after final packaging.

Based on [45 IAC 2.2-5-8\(d\)](#) and the Letter of Findings (the LOF), Company requests a ruling as to whether the following tangible personal property qualifies for an exemption from Indiana sales and use tax as it relates to Company's production process:

- The entire bagging line, including the bagging equipment, bag sealing equipment, conveyors to convey the bagged product to the palletizer, the robotic palletizer, labeling equipment, and shrink-wrap machine.
- If the entire bagging line is not exempt, each individual element of the bagging line:
 - Bagging machine that loads pellets into bags;
 - Bag sealing equipment used to seal the bags shut;
 - Bag labeling equipment for product labeling and identification;
 - Conveyors to transport bagged pellets to the robotic palletizer;
 - The robotic palletizer; and
 - Shrink wrap machine used to securely wrap the bags and protective cardboard sheeting and caps.

Each element of the bagging line has to be analyzed in order to determine whether it is directly used in the direct production of a completed product, or if any of the items are used in a postproduction activity. As Company states, the customers require that finished pellets be packaged into individual white plastic bags. Under [45 IAC 2.2-5-8\(d\)](#), Taxpayer's integrated production process is not complete until Taxpayer performs the required packaging, so the bagging machine and bag sealing equipment are exempt.

Regarding the labeling equipment, Company states that a bar-coded shipping label is attached to each Gaylord container which provides product information as required by the customer. The degree to which these labels are incorporated into and become an integral part of the pellet bags Company is selling to its customers would determine whether the labeling equipment is exempt. Company states that the labels provide product information as required by the customer. As such, Company's use of the labeling equipment would be exempt, because the labels are incorporated as an "integral component" of the pellet bags sold to Company's customers. [45 IAC 2.2-5-8\(d\)](#).

Turning to the shrink wrap equipment and the palletizer, Company states that customers require that the finished pellets be put into individual white plastic bags. However, the palletizing and shrink-wrapping equipment acts outside of Taxpayer's integrated production process because the "article being produced" in this case would be the plastic bags, where the product would be completed. The palletizing and wrapping of the bags would be a postproduction activity - perhaps necessary to deliver Company's products more conveniently, but having no immediate effect on the article being produced at that point. The palletizing and shrink-wrapping equipment are therefore not exempt because the equipment no longer acts within a continuous, integrated process of producing the particular "article being produced," nor are they essential to the finished product either.

The distinguishing components between Company's situation and the LOF are the regulations relied upon to

reach the conclusion that the pallets were exempt and the context in which the pallets were used. The LOF relied in part on [45 IAC 2.2-5-10\(c\)\(2\)\(D\)](#) to conclude that the palletizer at issue for the bottling plant was exempt. This regulation provides the following:

(2) The following types of equipment constitute essential and integral parts of the integrated production process and are, therefore, exempt. The fact that such equipment is built in a manner to service various pieces of exempt equipment, as an alternative to building the equipment into each of the pieces of exempt machinery, is not determinative.

...

(D) A bottling and packaging process, which includes equipment such as case and bottle conveyors used during the filling operations, equipment to fill the bottles with product and to place labels on the bottles, and case filling equipment and case palletizers. The exempt production process begins after the bottles are introduced onto the bottle conveyors for the filling step of production and ends with the final packaging of the product onto the case palletizers.

This example was very particular, and the company at issue in the LOF employed just such a bottling and packaging process, so the Department concluded that the company's palletizer and box turner conveyor were entitled to the exemption provided under [IC 6-2.5-5-3\(b\)](#). Furthermore, [45 IAC 2.2-5-10](#) pertains to processing and refining, as opposed to [45 IAC 2.2-5-8](#), which pertains to production and manufacturing. Company is engaging in production and manufacturing, and not processing and refining, so the provisions of [45 IAC 2.2-5-8](#) would apply. Additionally, this example is silent as to whether the customers of this company require that the bottles be put into pallets, but given the nature of bottles and the need to keep them stable and protected during shipping, presumably customers would require them to be. As the LOF concludes, "in the particular case of a bottling and packaging process, the production process 'ends with the final packaging of the product onto the case palletizers.'" Had the pallets not been required by the customers, the palletizer would be taxable. A different example in [45 IAC 2.2-5-8\(e\)](#) shows that pallets can be taxable if used for temporary storage after the production process has ended. See [45 IAC 2.2-5-8\(e\)](#), Example 3.

Because the palletizing equipment is not exempt, the conveyer is also taxable. The completed product is the bag, and therefore the conveyer is used in a postproduction process to get the completed product to the next postproduction activity of being palletized and shrink-wrapped.

RULING

Company's piping and vacuuming equipment (including motors, compressors, and related machinery and equipment) used to convey or transport raw materials from raw material storage to mixing bins, or from bulk rail cars to mixing bins, are exempt, because they are used to deliver the materials directly into the production process, so they would have an immediate impact on the article being produced.

The mixing bins and scales used to weigh and measure raw materials are exempt, as are forklifts, wheeled carts, cranes, conveyors, chutes, hoppers, talc hand loaders, and talc feeders, as they introduce materials into the production process. However, if forklifts, wheeled carts, cranes, and conveyors are used to transport raw materials from raw materials storage to raw material loaders, this would be a preproduction activity, as it is the loaders that may be used to transport raw materials into the production process, so this equipment would be one step removed from the production process.

Company's piping and vacuuming equipment used to convey materials from bulk rail car and bulk truck to storage silos are taxable, because they are used in a preproduction activity that has no immediate effect on the article being produced. Company's freight elevator used to transport raw materials from raw materials storage to the upper floors where measuring, mixing, and blending operations take place are taxable, because the elevator doesn't deliver the materials directly to the production process, but instead into the step before the introduction into the production process.

Company's bagging machine and bag sealing equipment are exempt because the integrated production process is not complete until Company performs packaging required by their customers. The labeling equipment is exempt because the labels are incorporated as an "integral component" of the pellet bags sold to Company's customers.

Company's palletizer and shrink-wrap machine are not exempt, nor is the conveyor, because they are all used in a postproduction activity after the final product is completed, which is the bagged product.

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.

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