

DEPARTMENT OF STATE REVENUE

Revenue Ruling # 2022-05ST
August 25, 2022

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ISSUES

Sales and Use Tax - Rental Equipment Used in Assembly Process

Authority: [IC 6-2.5-2-1](#); [IC 6-2.5-5-3](#); [45 IAC 2.2-5-8](#); *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); Letter of Findings 04-20170019 ([20171025-IR-045170462NRA](#)).

A taxpayer ("Company") seeks a ruling regarding whether their rental of equipment to be used on a customer's manufacturing and production job site would be exempt from sales tax.

STATEMENT OF FACTS

Company is based in Illinois. Company provides the following information regarding the transactions at issue, reproduced exactly as submitted in its request for a ruling with certain details redacted:

[Company] is a conveyor and equipment manufacturer. We manufacture, assemble, and install automated food processing, packaging, and conveyor equipment in food production lines at food processing manufacturing plants. Although a majority of the manufacture and assembly of tangible equipment purchased by our customers is completed in our facility in Illinois, the remainder of the equipment production and assembly must be done on the customer's site. This final production and assembly includes on-site welding and fabrication of parts, and the welding and installation of parts and components on the tangible equipment necessary for the equipment to operate. This work has an immediate effect on the tangible property being processed and is an essential and integral part of the integrated production process.

The requested ruling relates to our eligibility of exemption of equipment rental taxes on installation equipment that we must rent in the State of Indiana that is required to perform the above mentioned necessary and integral on-site manufacturing and assembly of our equipment. When fork- and scissor-lift equipment is required specifically for direct use in this production process, since it is necessary to lift and holds the equipment and components in place so the final manufacturing and production can take place, it is equipment directly used in the production process and has an immediate effect on the tangible personal property being processed.

DISCUSSION

Company requests the Department to issue a Ruling regarding the application of sales and use tax for the purchases of 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\(b\)](#).

In general, all purchases of tangible personal property are subject to Indiana sales tax unless an enumerated exemption from sales and/or use tax is available. 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) [T]ransactions 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.

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.

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.

Finally, [45 IAC 2.2-5-8\(k\)](#) provides the following:

"Direct production, manufacture, fabrication, assembly, or finishing of tangible personal property" is performance as a business of an integrated series of operations which places tangible personal property in a form, composition, or character different from that in which it was acquired. The change in form, composition, or character must be a substantial change, and it must result in a transformation of property into a different product having a distinctive name, character, and use. Operations such as compounding, fabricating, or assembling are illustrative of the types of operations which may qualify under this definition.

"Assembly," as the word is used in [IAC 2.2-5-8\(k\)](#), suggests that the manufacturing process has not yet been completed. Company manufactures food processing, packaging, and conveyor equipment, part of which is manufactured on its premise and then the remainder will be assembled and finished at a customer's place of business. Company's rented scissor lifts or forklifts will place "tangible personal property in a [different] form, composition, or character" The various parts, before this assembly process occurs, do not constitute a finished product. The parts only become a finished product through the use of scissor lifts or forklifts which help assemble the parts.

The manufacturing exemption test requires two steps: direct use and direct production of other tangible personal property. Taxpayer will directly use the scissor lifts or forklifts that it rents to directly build and assemble the final product. The department has found in the past that cranes, aerial lifts, and booms were exempt when directly used in the direct assembly of tangible personal property. See Letter of Findings 04-20170019 ([20171025-IR-045170462NRA](#)). The scissor lifts and forklifts will be used in the same exempt manner as in those prior decisions.

Assembly cannot always be clearly distinguished from installation, which is not a listed process in [IC 6-2.5-5-3](#). If Company were only installing a finished product, with no assembly involved, then the rental of the equipment would not be exempt. However, even though Company will be installing food processing, packaging, and conveyor equipment, the rented scissor lift or forklifts will also be directly used for direct assembly. Without the rented scissor lift or forklift, the taxpayer could not hold the pieces of the equipment into place in order to assemble the finished product. This also means that the rented equipment has an immediate effect on the finished product as well.

RULING

Company's rental of forklifts and scissor lifts would be exempt from Indiana sales tax pursuant to [IC 6-2.5-5-3](#) to the extent that the machinery is directly used for the direct assembly of a distinct piece of food processing, packaging, and conveyor equipment. However, usage of the machinery purely for the installation of various component pieces of any of the aforementioned equipment would not be exempt.

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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