

**Illinois Department of Revenue
Regulations**

Title 86 Part 150 Section 150.340 Manufacturing Machinery and Equipment; Production Related Tangible Personal Property; Department Determination of Amount of Exemption

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.340 Manufacturing Machinery and Equipment; Production Related Tangible Personal Property; Department Determination of Amount of Exemption

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- a) General. Beginning on July 1, 2007 and ending on June 30, 2008, the manufacturing and assembling machinery and equipment exemption described in 86 Ill. Adm. Code 130.330 includes purchases of production related tangible personal property, subject to the limitations set forth in this Section. For purposes of this Section, terms used, unless defined in this Section, have the meaning ascribed to them in Section 130.330.
- b) Limitations. The exemption for production related tangible personal property is subject to the following limitations:
- 1) The exemption for production related tangible personal property allowed under this Section shall be awarded to the taxpayer in the form of a credit memorandum issued by the Department as provided in subsection (f). Retailers must collect tax on sales and purchasers must pay tax on purchases of production related tangible personal property at the time of the sale.
 - 2) Purchases of production related tangible personal property made on or after July 1, 2007 and on or before June 30, 2008 are eligible for a credit memorandum equal to 5% of the purchase price.
 - 3) Manufacturer's Purchase Credit (see 86 Ill. Adm. Code 130.331) may not be earned by the purchase of production related tangible personal property for which a credit memorandum is received under this Section and purchases otherwise eligible for the manufacturing and assembling machinery and equipment exemption are not eligible for a credit memorandum under this Section.
 - 4) The maximum aggregate amount of credit memorandums for production related tangible personal property awarded under this Section to all taxpayers may not exceed \$10,000,000. If the claims for the credit memorandums exceed \$10,000,000, then the Department shall reduce the amount of the credit memorandum to each taxpayer on a pro rata basis.
 - 5) Example. If a taxpayer submits a report that contains purchases of production related tangible personal property totaling \$50,000 for the year, the amount of the credit memorandum, before proration, would be \$2,500 (5% of the purchase price). If all of the reports submitted by taxpayers contain aggregate purchases of production related tangible personal property totaling \$400,000,000 for the year, the aggregate amount of credit memorandums that would be issued, before

proration, is \$20,000,000 (5% of \$400,000,000). Because \$20,000,000 is twice the statutory limit of aggregate exemptions allowed, each exemption amount claimed will be reduced by one-half. So, the \$2,500 credit memorandum claimed will be reduced to \$1,250.

c) Production related tangible personal property.

- 1) "Production related tangible personal property" means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process described in Section 3-50 of the Use Tax Act takes place.
- 2) "Production related tangible personal property" includes, without limitation, tangible personal property that is purchased for incorporation into real estate within a manufacturing facility and tangible personal property that is used or consumed in activities such as research and development, preproduction material handling, receiving, quality control, inventory control, storage, staging, and packaging for shipping and transportation purposes.
- 3) "Production related tangible personal property" does not include:
 - i) tangible personal property that is used, within or without a manufacturing facility, in sales, purchasing, accounting, fiscal management, marketing, personnel recruitment or selection, or landscaping or
 - ii) tangible personal property that is required to be titled or registered with a department, agency, or unit of federal, State, or local government.

d) By way of illustration and not limitation, the following uses of tangible personal property will be considered production related:

- 1) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process.
- 2) Supplies and consumables used in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, cleaners and adhesives.
- 3) Hand tools (not electrically, pneumatically, or otherwise powered), protective apparel, and fire and safety equipment used or consumed in a manufacturing facility.
- 4) Tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging and packing for shipping or transportation.
- 5) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property.

- e) By way of illustration and not limitation, the following uses of property will not be considered production related:
- 1) The use of trucks, trailers, and motor vehicles which are required to be titled or registered pursuant to the Illinois Vehicle Code [625 ILCS 5], and aircraft or watercraft required to be registered with an agency of State or federal government.
 - 2) Office supplies, computers, desks, copiers and equipment which are used for sales, purchasing, accounting, fiscal management, marketing, and personnel recruitment or selection activities, even if such use takes place within a manufacturing facility.
 - 3) Tangible personal property used or consumed for aesthetic or decorative purposes, including landscaping and artwork.
 - 4) Tangible personal property used or consumed outside the manufacturing facility, including tangible personal property listed in subsection (d)(4) above, with the exception of tangible personal property used or consumed for research and development purposes.
 - 5) Tangible personal property purchased by a construction contractor for incorporation into a manufacturing facility.
 - 6) Tangible personal property transferred to a manufacturer's customer.
 - 7) Tangible personal property used in the process of graphic arts production.
- f) Administration of exemption claims. In order to meet the \$10,000,000 exemption cap set forth in subsection (b), which may require that exemptions be pro rated, and in accordance with specific rulemaking authority granted in 35 ILCS 105/3-50(5), the Department shall implement the exemption under this Section through Exemption Reports filed by purchasers only. The exemption report procedure shall be as provided in this subsection (f).
- 1) Purchasers must file with the Department an Exemption Report, in the form and manner prescribed by the Department, for tax paid on purchases of production related tangible personal property that is purchased on or after July 1, 2007 and on or before June 30, 2008. The Exemption Report must be filed after the close of the eligibility period on June 30, 2008 but no later than September 1, 2008.
 - 2) Subject to audit, purchasers must maintain records, as to each purchase of production related tangible personal property for which the purchaser files an Exemption Report, that:
 - A) Identify the vendor or supplier (including either the vendor's or supplier's Illinois registration number or Federal Employer Identification Number);
 - B) Identify the date of purchase, the purchase price, and description of the production related tangible personal property; and

- C) Contain a certificate signed by the vendor or supplier (on a form provided by the Department or on the purchaser's own form containing the appropriate information) that:
 - i) acknowledges that the purchaser will file an Exemption Report for the production related tangible personal property and
 - ii) certifies that the vendor or supplier will not file a claim against the taxes paid to the Department on that production related tangible personal property.
- 3) To claim the exemption for purchases of production related tangible personal property, the purchaser must report to the Department his or her purchases of production related tangible personal property made and for which tax was paid during the period beginning on July 1, 2007 and ending on June 30, 2008. The purchaser must make this report by signing and filing a Production Related Tangible Personal Property Exemption Report with the Department after the close of the eligibility period on June 30, 2008 but no later than September 1, 2008. Original Exemption Reports filed after September 1, 2008 shall be disallowed. The Production Related Tangible Personal Property Exemption Report must be filed on forms prescribed or approved by the Department and must state:
- A) The total purchase price of all production related tangible personal property purchased from July 1, 2007 through June 30, 2008 (excluding taxes paid);
 - B) The amount of the exemption claimed, which shall be equal to 5% of the amount in subsection (f)(3)(A); and
 - C) Such other information as the Department may reasonably require. (See Section 3-50, item (5) of the Use Tax Act.)
- 4) In order to efficiently administer this exemption within the statutory limitations, the Department shall proceed as provided in this subsection (f)(4).
- A) As soon as possible after the September 1, 2008 deadline for filing Exemption Reports, but no later than November 1, 2008, the Department shall review each Report timely filed.
 - B) The Department shall first determine all of those Exemption Reports that meet the requirements under this Section for approval in the full amount claimed (before proration) and hold them pending final determination on all Reports filed.
 - C) If an Exemption Report is timely filed that the Department does not approve in the full amount claimed (before pro-ration), the Department shall notify the taxpayer that it has not approved the exemption in the amount claimed and explain the basis for its decision. The taxpayer shall have 30 days after the date of the notice to submit a corrected Exemption Report or provide evidence that the original Exemption Report is correct.

- D) If, within 30 days after the date of the notice in subsection (f)(4)(C), the taxpayer submits a corrected Exemption Report that meets the requirements under this Section for approval, or if the taxpayer submits evidence that the original Exemption Report is correct and the Department agrees with that evidence, then the exemption amount claimed will be approved and included with the other approved Exemption Reports under this Section.
- E) If, within 30 days after the date of the notice in subsection (f)(4)(C), the taxpayer responds to the notice and the Department changes the amount of the exemption approved as a result but does not approve the full amount claimed in the corrected Exemption Report or based on the evidence provided, the Department shall include this final amount approved with the other approved Exemption Reports under this Section.
- F) If, within 30 days after the date of the notice in subsection (f)(4)(C), the taxpayer responds to the notice, but the taxpayer submits a corrected Exemption Report that does not meet the requirements under this Section for approval or the taxpayer submits evidence that the original Exemption Report is correct and the Department does not agree with that evidence, then the Exemption Report shall be approved only in the amount the Department determined to be eligible based on the original Exemption Report filed, which, in some instances will be a denial of all exemption amounts claimed.
- G) If the taxpayer does not respond to the notice in subsection (f)(4)(C) within 30 days after the date of the notice, then the Exemption Report shall be approved only in the amount the Department determined to be eligible based on the original Exemption Report filed, which, in some instances will be a denial of all exemption amounts claimed.
- 5) After making the final determination as provided in subsection (f)(4) of which Exemption Reports meet the requirements for approval, the Department shall determine the aggregate amount of approved Exemption Reports for purchases of production related tangible personal property. If the aggregate amount of exemptions approved exceeds \$10,000,000, the Department shall reduce the exemption amount allowed to each claimant on a pro rata basis. After determining the pro rata amount approved for each Exemption Report, the Department shall notify each purchaser that the Report is approved and the pro rata amount of the exemption claimed that was allowed. This notification shall be made within 30 days after the Department makes the final determination.
- Example: Purchaser files an Exemption Report claiming an exemption of \$10,000 which the Department approves. The aggregate of all approved exemption claims equals \$20,000,000. All exemption claimants will be allowed a pro-rated exemption equal to one-half the Department-approved amount claimed. The purchaser who claimed a \$10,000 exemption will be allowed an exemption of \$5,000.
- 6) All exemption reports approved by the Department under this Section shall be awarded by the Department in the form of a credit memorandum. The taxpayer in the example in subsection (f)(5) above would be awarded a credit

memorandum in the amount of \$5,000 that he or she may use to satisfy State Use Tax and State and local occupation tax liability on future returns filed with the Department. A credit memorandum that is not used to offset the tax liability of the taxpayer may be assigned or transferred in accordance with Section 130.1505. No interest shall be paid on exemption claims allowed under this Section.

7) A purchaser who is issued a credit memorandum under this Section for tax paid on the purchase of property that is later determined not to qualify as production related tangible personal property may be liable for tax, penalty, and interest on the purchase of that property as of the date the credit memorandum is issued.

(Source: Added at 32 Ill. Reg. _____, effective _____)

30 Ill. Reg. _____, effective _____.