

SB2339



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2339

Introduced 2/14/2008, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

35 ILCS 105/3-50
35 ILCS 120/2-45

from Ch. 120, par. 439.3-50
from Ch. 120, par. 441-45

Amends the Use Tax Act and the Retailers' Occupation Tax Act. Extends the manufacturing and assembling machinery and equipment exemption from June 30, 2008 to June 30, 2013. Effective immediately.

LRB095 19744 RCE 46114 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section
5 3-50 as follows:

6 (35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

7 Sec. 3-50. Manufacturing and assembly exemption. The
8 manufacturing and assembling machinery and equipment exemption
9 includes machinery and equipment that replaces machinery and
10 equipment in an existing manufacturing facility as well as
11 machinery and equipment that are for use in an expanded or new
12 manufacturing facility. The machinery and equipment exemption
13 also includes machinery and equipment used in the general
14 maintenance or repair of exempt machinery and equipment or for
15 in-house manufacture of exempt machinery and equipment. For the
16 purposes of this exemption, terms have the following meanings:

17 (1) "Manufacturing process" means the production of an
18 article of tangible personal property, whether the article
19 is a finished product or an article for use in the process
20 of manufacturing or assembling a different article of
21 tangible personal property, by a procedure commonly
22 regarded as manufacturing, processing, fabricating, or
23 refining that changes some existing material into a

1 material with a different form, use, or name. In relation
2 to a recognized integrated business composed of a series of
3 operations that collectively constitute manufacturing, or
4 individually constitute manufacturing operations, the
5 manufacturing process commences with the first operation
6 or stage of production in the series and does not end until
7 the completion of the final product in the last operation
8 or stage of production in the series. For purposes of this
9 exemption, photoprocessing is a manufacturing process of
10 tangible personal property for wholesale or retail sale.

11 (2) "Assembling process" means the production of an
12 article of tangible personal property, whether the article
13 is a finished product or an article for use in the process
14 of manufacturing or assembling a different article of
15 tangible personal property, by the combination of existing
16 materials in a manner commonly regarded as assembling that
17 results in an article or material of a different form, use,
18 or name.

19 (3) "Machinery" means major mechanical machines or
20 major components of those machines contributing to a
21 manufacturing or assembling process.

22 (4) "Equipment" includes an independent device or tool
23 separate from machinery but essential to an integrated
24 manufacturing or assembly process; including computers
25 used primarily in a manufacturer's computer assisted
26 design, computer assisted manufacturing (CAD/CAM) system;

1 any subunit or assembly comprising a component of any
2 machinery or auxiliary, adjunct, or attachment parts of
3 machinery, such as tools, dies, jigs, fixtures, patterns,
4 and molds; and any parts that require periodic replacement
5 in the course of normal operation; but does not include
6 hand tools. Equipment includes chemicals or chemicals
7 acting as catalysts but only if the chemicals or chemicals
8 acting as catalysts effect a direct and immediate change
9 upon a product being manufactured or assembled for
10 wholesale or retail sale or lease.

11 (5) "Production related tangible personal property"
12 means all tangible personal property that is used or
13 consumed by the purchaser in a manufacturing facility in
14 which a manufacturing process takes place and includes,
15 without limitation, tangible personal property that is
16 purchased for incorporation into real estate within a
17 manufacturing facility and tangible personal property that
18 is used or consumed in activities such as research and
19 development, preproduction material handling, receiving,
20 quality control, inventory control, storage, staging, and
21 packaging for shipping and transportation purposes.
22 "Production related tangible personal property" does not
23 include (i) tangible personal property that is used, within
24 or without a manufacturing facility, in sales, purchasing,
25 accounting, fiscal management, marketing, personnel
26 recruitment or selection, or landscaping or (ii) tangible

1 personal property that is required to be titled or
2 registered with a department, agency, or unit of federal,
3 State, or local government.

4 The manufacturing and assembling machinery and equipment
5 exemption includes production related tangible personal
6 property that is purchased on or after July 1, 2007 and on or
7 before June 30, 2013 ~~2008~~. The exemption for production related
8 tangible personal property is subject to both of the following
9 limitations:

10 (1) The maximum amount of the exemption for any one
11 taxpayer may not exceed 5% of the purchase price of
12 production related tangible personal property that is
13 purchased on or after July 1, 2007 and on or before June
14 30, 2013 ~~2008~~. A credit under Section 3-85 of this Act may
15 not be earned by the purchase of production related
16 tangible personal property for which an exemption is
17 received under this Section.

18 (2) The maximum aggregate amount of the exemptions for
19 production related tangible personal property awarded
20 under this Act and the Retailers' Occupation Tax Act to all
21 taxpayers may not exceed \$10,000,000. If the claims for the
22 exemption exceed \$10,000,000, then the Department shall
23 reduce the amount of the exemption to each taxpayer on a
24 pro rata basis.

25 The Department may adopt rules to implement and administer the
26 exemption for production related tangible personal property.

1 The manufacturing and assembling machinery and equipment
2 exemption includes the sale of materials to a purchaser who
3 produces exempted types of machinery, equipment, or tools and
4 who rents or leases that machinery, equipment, or tools to a
5 manufacturer of tangible personal property. This exemption
6 also includes the sale of materials to a purchaser who
7 manufactures those materials into an exempted type of
8 machinery, equipment, or tools that the purchaser uses himself
9 or herself in the manufacturing of tangible personal property.
10 This exemption includes the sale of exempted types of machinery
11 or equipment to a purchaser who is not the manufacturer, but
12 who rents or leases the use of the property to a manufacturer.
13 The purchaser of the machinery and equipment who has an active
14 resale registration number shall furnish that number to the
15 seller at the time of purchase. A user of the machinery,
16 equipment, or tools without an active resale registration
17 number shall prepare a certificate of exemption for each
18 transaction stating facts establishing the exemption for that
19 transaction, and that certificate shall be available to the
20 Department for inspection or audit. The Department shall
21 prescribe the form of the certificate. Informal rulings,
22 opinions, or letters issued by the Department in response to an
23 inquiry or request for an opinion from any person regarding the
24 coverage and applicability of this exemption to specific
25 devices shall be published, maintained as a public record, and
26 made available for public inspection and copying. If the

1 informal ruling, opinion, or letter contains trade secrets or
2 other confidential information, where possible, the Department
3 shall delete that information before publication. Whenever
4 informal rulings, opinions, or letters contain a policy of
5 general applicability, the Department shall formulate and
6 adopt that policy as a rule in accordance with the Illinois
7 Administrative Procedure Act.

8 (Source: P.A. 95-707, eff. 1-11-08.)

9 Section 10. The Retailers' Occupation Tax Act is amended by
10 changing Section 2-45 as follows:

11 (35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

12 Sec. 2-45. Manufacturing and assembly exemption. The
13 manufacturing and assembly machinery and equipment exemption
14 includes machinery and equipment that replaces machinery and
15 equipment in an existing manufacturing facility as well as
16 machinery and equipment that are for use in an expanded or new
17 manufacturing facility.

18 The machinery and equipment exemption also includes
19 machinery and equipment used in the general maintenance or
20 repair of exempt machinery and equipment or for in-house
21 manufacture of exempt machinery and equipment. For the purposes
22 of this exemption, terms have the following meanings:

23 (1) "Manufacturing process" means the production of an
24 article of tangible personal property, whether the article

1 is a finished product or an article for use in the process
2 of manufacturing or assembling a different article of
3 tangible personal property, by a procedure commonly
4 regarded as manufacturing, processing, fabricating, or
5 refining that changes some existing material or materials
6 into a material with a different form, use, or name. In
7 relation to a recognized integrated business composed of a
8 series of operations that collectively constitute
9 manufacturing, or individually constitute manufacturing
10 operations, the manufacturing process commences with the
11 first operation or stage of production in the series and
12 does not end until the completion of the final product in
13 the last operation or stage of production in the series.
14 For purposes of this exemption, photoprocessing is a
15 manufacturing process of tangible personal property for
16 wholesale or retail sale.

17 (2) "Assembling process" means the production of an
18 article of tangible personal property, whether the article
19 is a finished product or an article for use in the process
20 of manufacturing or assembling a different article of
21 tangible personal property, by the combination of existing
22 materials in a manner commonly regarded as assembling that
23 results in a material of a different form, use, or name.

24 (3) "Machinery" means major mechanical machines or
25 major components of those machines contributing to a
26 manufacturing or assembling process.

1 (4) "Equipment" includes an independent device or tool
2 separate from machinery but essential to an integrated
3 manufacturing or assembly process; including computers
4 used primarily in a manufacturer's computer assisted
5 design, computer assisted manufacturing (CAD/CAM) system;
6 any subunit or assembly comprising a component of any
7 machinery or auxiliary, adjunct, or attachment parts of
8 machinery, such as tools, dies, jigs, fixtures, patterns,
9 and molds; and any parts that require periodic replacement
10 in the course of normal operation; but does not include
11 hand tools. Equipment includes chemicals or chemicals
12 acting as catalysts but only if the chemicals or chemicals
13 acting as catalysts effect a direct and immediate change
14 upon a product being manufactured or assembled for
15 wholesale or retail sale or lease.

16 (5) "Production related tangible personal property"
17 means all tangible personal property that is used or
18 consumed by the purchaser in a manufacturing facility in
19 which a manufacturing process takes place and includes,
20 without limitation, tangible personal property that is
21 purchased for incorporation into real estate within a
22 manufacturing facility and tangible personal property that
23 is used or consumed in activities such as research and
24 development, preproduction material handling, receiving,
25 quality control, inventory control, storage, staging, and
26 packaging for shipping and transportation purposes.

1 "Production related tangible personal property" does not
2 include (i) tangible personal property that is used, within
3 or without a manufacturing facility, in sales, purchasing,
4 accounting, fiscal management, marketing, personnel
5 recruitment or selection, or landscaping or (ii) tangible
6 personal property that is required to be titled or
7 registered with a department, agency, or unit of federal,
8 State, or local government.

9 The manufacturing and assembling machinery and equipment
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11 property that is purchased on or after July 1, 2007 and on or
12 before June 30, 2013 ~~2008~~. The exemption for production related
13 tangible personal property is subject to both of the following
14 limitations:

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17 production related tangible personal property that is
18 purchased on or after July 1, 2007 and on or before June
19 30, 2013 ~~2008~~. A credit under Section 3-85 of this Act may
20 not be earned by the purchase of production related
21 tangible personal property for which an exemption is
22 received under this Section.

23 (2) The maximum aggregate amount of the exemptions for
24 production related tangible personal property awarded
25 under this Act and the Retailers' Occupation Tax Act to all
26 taxpayers may not exceed \$10,000,000. If the claims for the

1 exemption exceed \$10,000,000, then the Department shall
2 reduce the amount of the exemption to each taxpayer on a
3 pro rata basis.

4 The Department may adopt rules to implement and administer the
5 exemption for production related tangible personal property.

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7 exemption includes the sale of materials to a purchaser who
8 produces exempted types of machinery, equipment, or tools and
9 who rents or leases that machinery, equipment, or tools to a
10 manufacturer of tangible personal property. This exemption
11 also includes the sale of materials to a purchaser who
12 manufactures those materials into an exempted type of
13 machinery, equipment, or tools that the purchaser uses himself
14 or herself in the manufacturing of tangible personal property.
15 The purchaser of the machinery and equipment who has an active
16 resale registration number shall furnish that number to the
17 seller at the time of purchase. A purchaser of the machinery,
18 equipment, and tools without an active resale registration
19 number shall furnish to the seller a certificate of exemption
20 for each transaction stating facts establishing the exemption
21 for that transaction, and that certificate shall be available
22 to the Department for inspection or audit. Informal rulings,
23 opinions, or letters issued by the Department in response to an
24 inquiry or request for an opinion from any person regarding the
25 coverage and applicability of this exemption to specific
26 devices shall be published, maintained as a public record, and

1 made available for public inspection and copying. If the
2 informal ruling, opinion, or letter contains trade secrets or
3 other confidential information, where possible, the Department
4 shall delete that information before publication. Whenever
5 informal rulings, opinions, or letters contain a policy of
6 general applicability, the Department shall formulate and
7 adopt that policy as a rule in accordance with the Illinois
8 Administrative Procedure Act.

9 (Source: P.A. 95-707, eff. 1-11-08.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.