

# HB3763



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3763

Introduced 2/25/2009, by Rep. Mark L. Walker

#### 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. Provides that the manufacturing and assembling machinery and equipment exemption also includes production related tangible personal property purchased on or after July 1, 2007 (instead of on or after July 1, 2007 and on or before June 30, 2008). Effective immediately.

LRB096 09548 RCE 19708 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, 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, 2008. A credit under Section 3-85 of this Act may not  
15 be earned by the purchase of production related tangible  
16 personal property for which an exemption is received under  
17 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  
10 exemption includes production related tangible personal  
11 property that is purchased on or after July 1, 2007 ~~and on or~~  
12 ~~before June 30, 2008~~. The exemption for production related  
13 tangible personal property is subject to both of the following  
14 limitations:

15 (1) The maximum amount of the exemption for any one  
16 taxpayer may not exceed 5% of the purchase price of  
17 production related tangible personal property that is  
18 purchased on or after July 1, 2007 and on or before June  
19 30, 2008. A credit under Section 3-85 of this Act may not  
20 be earned by the purchase of production related tangible  
21 personal property for which an exemption is received under  
22 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 Use ~~Retailers' Occupation~~ Tax Act to  
26 all taxpayers may not exceed \$10,000,000. If the claims for

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

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

6           The manufacturing and assembling machinery and equipment  
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; revised 10-23-08.)

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