

1 * * * Sales and Use Tax; Manufacturing Exemption * * *

2 Sec. 1. 32 V.S.A. § 9741(14) is amended to read:

3 (14)(A) Tangible personal property which ~~that~~ becomes an ingredient or
4 component part of, or is consumed or destroyed or loses its identity in the
5 manufacture of tangible personal property for sale;

6 (B) ~~machinery~~ Machinery and equipment for use or consumption
7 directly and exclusively, except for isolated or occasional uses, used in or
8 consumed as an integral or essential part of an integrated production operation
9 by a manufacturing or processing plant or facility engaged in the manufacture
10 of tangible personal property for sale, or in the manufacture of other machinery
11 or equipment, parts, or supplies for use in the manufacturing process; and
12 devices used to monitor manufacturing machinery and equipment or the
13 product during the manufacturing process. Machinery and equipment used in
14 administrative, managerial, sales, or other nonproduction activities, or used
15 prior to the first production operation or subsequent to the initial packaging of
16 a product, shall not be exempt from tax, unless such uses are merely isolated or
17 occasional or unless the machinery used for initial packaging is also used for
18 secondary packaging as part of an integrated process. Machinery and
19 equipment shall not include buildings and structural components thereof. As
20 used in this subdivision, it shall be rebuttably presumed that uses are not
21 isolated or occasional if they total more than four percent of the time the
22 machinery or equipment is operated. For the purposes of this subsection,

1 “manufacture” includes extraction of mineral deposits, the entire printing and
2 bookmaking process, and the entire publication process.

3 (C) As used in this subsection:

4 (i) “Integrated production operation” means an integrated series of
5 operations at a manufacturing or processing plant or facility to process,
6 transform or convert tangible personal property by physical, chemical or other
7 means into a different form, composition or character from that in which it
8 originally existed. Integrated production operations begin when raw material
9 is first changed physically, chemically or otherwise changed in form,
10 composition or character (including being removed from storage or introduced
11 for this manipulation) and ends when the product is placed in initial packaging
12 and shall include production line operations, including initial packaging
13 operations; and waste, pollution and environmental control operations.

14 (ii) “Production line” means the assemblage of machinery and
15 equipment at a manufacturing or processing plant or facility where the actual
16 transformation or processing of tangible personal property occurs.

17 (iii) “Manufacturing or processing plant or facility” means a
18 single, fixed location owned or controlled by a manufacturing or processing
19 business that consists of one or more structures or buildings in a contiguous
20 area where integrated production operations are conducted to manufacture or
21 process tangible personal property to be ultimately sold at retail. A business
22 may operate one or more manufacturing or processing plants or facilities at

1 different locations to manufacture or process a single product of tangible
2 personal property to be ultimately sold at retail.

3 (iv) “Manufacturing or processing business” means a business that
4 utilizes an integrated production operation to manufacture, process, fabricate,
5 or finish items for wholesale and retail distribution as part of what is
6 commonly regarded by the general public as an industrial manufacturing or
7 processing operation or an agricultural commodity processing operation.
8 “Manufacturing or processing business” does not include nonindustrial
9 businesses whose operations are primarily retail and that produce or process
10 tangible personal property as an incidental part of conducting the retail
11 business, such as retailers who bake, cook or prepare food products in the
12 regular course of their retail trade, the assembling of product by retailers for
13 sale, grocery stores, meat lockers and meat markets that butcher or dress
14 livestock or poultry in the regular course of their retail trade, contractors who
15 alter, service, repair or improve real property, and retail businesses that clean,
16 service or refurbish and repair tangible personal property for its owner. The
17 examples provided in this subdivision (iv) shall not be construed as exclusive.

18 (v) “Primary” or “primarily” means more than 50 percent of the
19 time.

20 (D) For the purposes of this subsection, machinery and equipment
21 shall be deemed to be used as an integral or essential part of an integrated
22 production operation when used during the integrated production operation:

1 (i) to transport, convey, handle, or store the property undergoing
2 manufacturing or processing at any point from the beginning of the production
3 line until it is placed into initial packaging;

4 (ii) to act upon, effect, promote, or otherwise facilitate a physical
5 change to the property undergoing manufacturing or processing;

6 (iii) to guide, control, or direct the movement of property
7 undergoing manufacturing or processing;

8 (iv) to test or measure materials, the property undergoing
9 manufacturing or processing, or the finished product during the manufacturer's
10 integrated production operations;

11 (v) to plan, manage, control, or record the receipt and flow of
12 property while undergoing manufacturing or processing;

13 (vi) to produce energy for, lubricate, control the operating of or
14 otherwise enable the functioning of other production machinery and equipment
15 and the continuation of production operations;

16 (vii) to package the property being manufactured or processed in
17 any container or wrapping in which such property is normally sold or
18 transported, even if the machinery operates after the point of initial packaging;

19 (viii) to transmit or transport electricity, coke, gas, water, steam,
20 or similar substances used in production operations from the point of
21 generation, if produced by the manufacturer or processor at the plant site, to
22 that manufacturer's production operation; or, if purchased or delivered from

1 off-site, from the point where the substance enters the site of the plant or
2 facility to that manufacturer’s production operations;

3 (ix) to cool, heat, filter, refine or otherwise treat water, steam,
4 acid, oil, solvents, or other substances that are used in production operations;

5 (x) to provide and control an environment required to maintain
6 certain levels of air quality, humidity, or temperature in special and limited
7 areas of the plant or facility where such regulation of temperature or humidity
8 is part of and essential to the production process;

9 (xi) to treat, transport, or store waste or other byproducts of
10 production operations at the plant or facility and to clean manufacturing
11 machinery and equipment;

12 (xii) to control pollution at the plant or facility where the pollution
13 is produced by the manufacturing or processing operation; or

14 (xiii) to inspect or conduct quality control on the product, even if
15 the inspection or quality control machinery operates after the point of initial
16 packaging.

17 (E) “Machinery and equipment used as an integral or essential part of
18 an integrated production operation” shall not mean:

19 (i) machinery and equipment used for nonproduction purposes,
20 including machinery and equipment used for plant security, fire prevention,
21 first aid, accounting, administration, record keeping, advertising, marketing,
22 sales or other related activities, plant cleaning, plant communications, and
23 employee work scheduling;

1 (ii) machinery, equipment, and tools used primarily in maintaining
2 and repairing any type of machinery and equipment or the building and plant;

3 (iii) transportation, transmission, and distribution equipment not
4 primarily used in a production, warehousing, or material handling operation at
5 the plant or facility, including the means of conveyance of natural gas,
6 electricity, oil or water, and related equipment, located outside the plant or
7 facility;

8 (iv) office machines and equipment including computers and
9 related peripheral equipment not used directly and primarily to control or
10 measure the manufacturing process;

11 (v) furniture and other furnishings;

12 (vi) buildings, other than exempt machinery and equipment that is
13 permanently affixed to or becomes a physical part of the building, and any
14 other part of real estate that is not otherwise exempt;

15 (vii) building fixtures that are not integral to the manufacturing
16 operation, such as utility systems for heating, ventilation, air conditioning,
17 communications, plumbing, or electrical;

18 (viii) machinery and equipment used for general plant heating,
19 cooling and lighting; or

20 (ix) motor vehicles that are registered for operation on public
21 highways.

22 (F) Subdivisions (D) and (E) of this subsection (14) shall not be
23 construed as exclusive lists of the machinery and equipment that qualify or do

1 not qualify as an integral or essential part of an integrated production
2 operation. When machinery or equipment is used as an integral or essential
3 part of production operations part of the time and for nonproduction purposes
4 at other times, the primary use of the machinery or equipment shall determine
5 the qualification of the machinery or equipment for the exemption

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