



# Sales & Use Taxes for the Manufacturing Industry

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# *Sales and Use Tax for Manufacturers*

## Connecticut Business & Industry Association

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June 11, 2019



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### *Agenda*

2019 Legislation Update

Full Exemptions

- Manufacturing Machinery
- Materials, Tools and Fuel
- Other Exemptions

Partial Exemptions

- Manufacturing Machinery
- Materials, Tools and Fuel

Services

Sales of Tangible Personal Property

Q&A

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## **Sales Tax**

### 2019 Legislation Update

- **2019 Legislation:**
  - Many significant legislative changes, but none directed toward sales tax as specifically applied to manufacturers
  - Additional taxable services including dry cleaning and laundry as well as interior design services
  - Digital goods now subject to sales tax at full rate
  - Digital goods include audio works, visual works, audio-visual works, reading materials or ring tones, that are electronically accessed or transferred

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## **Sales Tax**

### The Basics

- Major revenue source for the states, as well as for local jurisdictions that “piggy back” the state tax.
- State rate: usually **4 - 7%**. Local rate: usually **0.125 - 5%**.
- Sales tax is a tax on consumption, but it is not a “consumption tax.” It is more accurately labeled a “**transaction tax**”, similar to a VAT.
- Use tax complements the sales tax where title passes outside the taxing state. Most audit activities today involve the use tax.
- **Sales and use taxes** are being broadened to include items such as services, telecommunications, and installation.

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## ***Sales Tax***

### The Basics

- **Goods:** Taxable unless otherwise exempt. Taxed based on where title transfers or where property is used.
- **Services:** Only taxable when specifically enumerated. Tax based on where “benefit” of the service is derived.
- **Sales Tax:** Charged by the retailer.
- **Use Tax:** Self-assessed by purchaser on taxable purchases when sales tax is not charged or is charged incorrectly.

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## ***Sales Tax***

### The Basics – Growth in Taxation of Services

- **Why expand taxation of services now?**
  - Service economy now prevails
  - Revenue shortfalls of the states
  - Importance of Internet transactions
- **Common targets of the new taxation policy:**
  - Information services
  - Real estate maintenance or repair
  - Computer and data processing services
  - Telecommunication services
  - Internet services

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## **Sales Tax**

### The Basics

- **Tangible Property (i.e., Goods)**
  - Full Exemptions
  - Partial Exemptions
- **Services; common taxable services in Connecticut include:**
  - Business analysis, management, management consulting and public relations services
  - Employment and personnel agency services
  - Health care services
  - Intrastate transportation services
  - Janitorial and maintenance services
  - Services to real property

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## **Sales Tax**

### The Basics

**Manufacturing Plant or Industrial Plant:** an establishment that has manufacturing or fabricating as its predominant purpose (more than 50%) and that is generally recognized as such.

- Predominant purpose measured by proportion of floor space, number of employees, wages and salaries, and operating costs attributable to manufacturing or fabricating process.
- If not located in a commercial or industrial zone, is less likely to qualify as manufacturing or industrial plant.
- Research and development as well as measuring and testing are included only to establish plant status.

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# *Full Exemptions*

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## *Definitions*

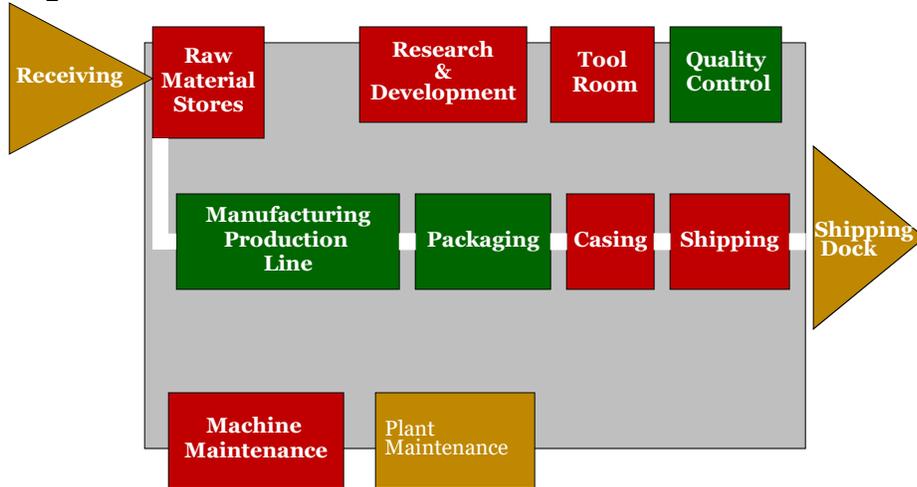
### Full Exemptions

**Manufacturing:** an operation or an integrated series of operations that substantially transform, by physical, chemical or other means, the form, composition or character of raw or finished materials into a product possessing a new name, nature or use which is intended for sale, whether by the manufacturer or by another on whose behalf the manufacturer has undertaken the manufacture. (Differs for partial exemption.)

**Fabricating:** an operation or an integrated series of operations that alter or modify a manufactured product or raw materials, whether or not a change in the identity of the product or materials occurs. (Same premise as partial exemption.)

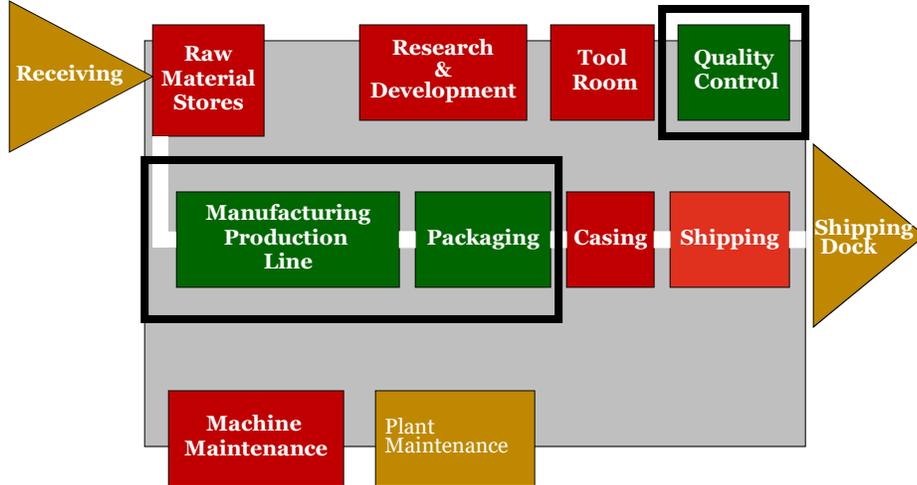
**Processing:** No full exemption available. (Partial exemption only.)

## ***Full Exemption***



## ***Manufacturing Machinery***

## ***Full Exemption-Machinery***



## ***Full Exemption*** Manufacturing Machinery

- Machinery
- Component Parts
- Repair and Replacement Parts

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### ***Full Exemption***

Manufacturing Machinery (includes component and repair/replacement parts)

- “Machine”
- “Manufacturing”
- “Manufacturing Production Process”

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### ***Machinery***

- Used Directly in a Manufacturing Production Process
  - **Direct Effect**
  - **Predominantly:** More than 50%
  - **Exclusively:** control, monitor or design AND directly linked to production machinery
  - **Exclusively:** to test (non-destructive), inspect or measure
- Replacement Machinery

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## ***Component Parts***

- **Expand Capability**
  - Includes items that control or monitor the equipment or enhance productivity.
  
- **Add New Function**
  - Component parts or contrivances for manufacturing machinery, purchased with or separate from the machine are exempt from sales and use taxes.

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## ***Repair and Replacement Parts***

- **Repair Existing Parts**
  - Repair and replacement parts for manufacturing machinery, purchased with or separate from the machine are exempt from sales and use taxes.

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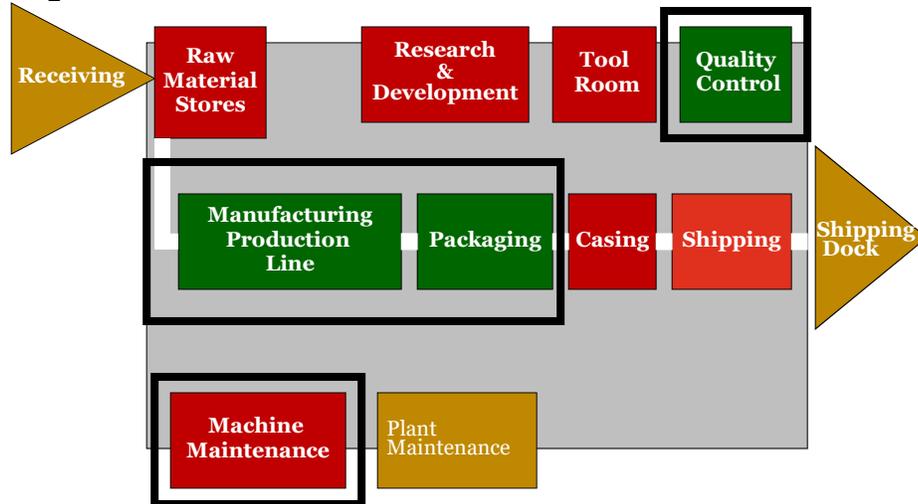
## ***Software for Fully Exempt Manufacturing Machinery***

- Canned or Prewritten Software
  - Purchased at a time by manufacturer
- Custom or Customized Software
  - Must be purchased in the same transaction and from the same vendor
  - If purchased in a separate transaction - Computer and data processing services

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## ***Materials, Tools and Fuel***

## ***Full Exemption-Materials, Tools and Fuel***



## ***Materials, Tools and Fuel***

- Which Become a Component Part of a Product to be Sold
- Used Directly in an Industrial Plant in the Actual Fabrication of Finished Products to be Sold
- Used Directly in the Furnishing of Power to an Industrial Plant
- Used Directly in the Furnishing of Certain Utilities to Consumers

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## ***Materials, Tool and Fuel***

- “Materials, Tools and Fuel”
- “Manufacturers”
- “Fabricators”
- “Industrial Plant”

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## ***Fuel Exemption under C.G.S Section 12-412(18)***

- Used Directly in an Industrial Plant in the Actual Fabrication of Finished Products to be Sold
- Used Directly in the Furnishing of Power to an Industrial Manufacturing Plant
- Used Directly in the Furnishing of Certain Utilities to Consumers

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## ***Other Exemptions***

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## ***Other Exemptions***

- Certain Packaging Material
- Equipment and Supplies for Qualifying Pollution Control Facilities
- Utilities Services and Heating Fuel
- Safety Apparel
- Commercial Trucks with Gross Vehicle Weight Ratings in Excess of 26,000 pounds

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### ***Certain Packaging Material***

- Nonreturnable containers and Packaging Materials, 12-412(14)
  - nonreturnable, purchased without its contents, contents placed in the container by the purchaser, sold with the container
- Boxes, cartons, drums, padding inside containers, tape, descriptive labels, labels other than shipping labels, lumber, pallets, shrink wrap
- Shipping labels and price tags are taxable
- Available to any business, not restricted to just manufacturers

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### ***Pollution Control Equipment***

- Certain equipment and supplies, certified as approved by the DEP, that are used or consumed in air pollution control and waste treatment facilities - CGS Secs. 12-412(21) & (22)
- PS 99(2) - air pollution control and PS 99(3) - water pollution control: provide list of pre-approved items to reduce, control or eliminate air and water pollution
- Facility is a portion of a plant dedicated to process of pollution control
- Exemptions apply to property, not services

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## ***Gas, Electricity and Heating Fuel***

- In addition to exemption for fuel under 12-412(18)
- 12-412(3) - exempts sale of gas and electricity for use directly in fabrication of product in a plant; however, exemption is allowed only with respect to a metered building, location or premises at which not less than 75% of the gas or electricity is used for manufacturing
- 12-412(16) exempts sales of fuel used for heating purposes in any building, location or premise used directly in manufacturing, however only allowed where 75% of fuel is used for manufacturing

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## ***Gas, Electricity and Heating Fuel (continued)***

- Mixed Use Locations
  - 75% or more of gas, electricity or heating fuel is used (*usage test*)
  - 75% or more of the area (*square footage test*); includes pre and post production activities
- PS 94(3.2)
- \$150 monthly electricity exemption

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## ***Safety Apparel***

- 12-412(91) exempts safety apparel - any item of clothing or protective equipment worn by an employee for protection during the course of the employee's employment
- Formerly partial exemption under MRA

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## ***Commercial Trucks***

- 12-412(70) exempts sales of commercial trucks, truck tractors, tractors and semi-trailers, and vehicles used in combination therewith, which
  - have a gross vehicle weight rating in excess of 26,000 pounds or
  - are operated exclusively for one year from date of purchase for interstate freight pursuant to a certificate issued by the Interstate Commerce Commission

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### ***Full Exemption Certificates***

- CERT-100
- CERT-101
- CERT-115
- Resale Certificate
  
- CERT-117
- CERT-124

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### ***Other Full Exemption Certificates***

- CERT-104
- CERT-105
- CERT-110
- CERT-111
- CERT-119
- CERT -120
  
- CERT-129
- CERT-130
- CERT-132
- CERT-133
- CERT-134

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# *Partial Exemption*

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## ***The Manufacturing Recovery Act of 1992 ("The MRA")***

- Expanded the Scope of the Manufacturing Process for Manufacturers

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## ***Definitions***

### **MRA**

**Manufacturing** the activity of converting or conditioning tangible personal property by changing the form, composition, quality or character of the property for ultimate sale at retail **or use in the manufacturing of a product to be ultimately sold at retail. (Differs from full exemption.)**

**Fabricating:** to make, build, create, produce or assemble components of tangible personal property so that they work in a new or different manner. (Same premise as full exemption.)

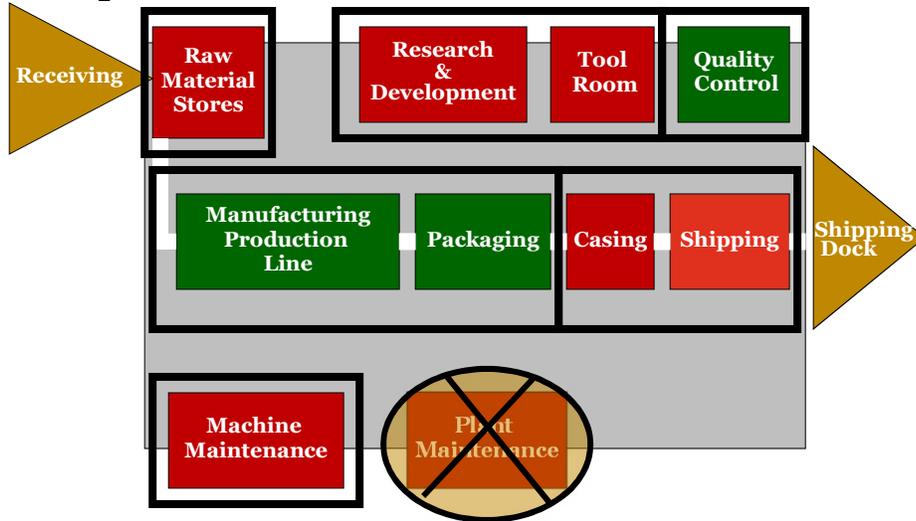
**Processing:** the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property. (Partial exemption only.)

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## ***The Manufacturing Recovery Act of 1992*** ***(“The MRA”)***

- Created a Partial Exemption for a Broader Range of Purchases
  - Machinery and Equipment
  - Component Parts
  - Repair and Replacement Parts
  - Materials
  - Tools
  - Fuel

## ***Partial Exemption***



## ***Machinery and Equipment***

- No Industrial Plant Requirement
  - Used Primarily at any stage of the Manufacturing Production Process
    - o Primarily: Chiefly, more than 33%, if 3 functions
- Research and Development
- Measuring or Testing
- Repairing and Maintaining Machinery and Equipment
- Metal Finishing

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## ***Component Parts***

- Expand Capability
- Add New Function
  - Machinery
  - Equipment
  - Tools

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## ***Repair and Replacement Parts***

- Replace Existing Parts
  - Machinery
  - Equipment
  - Tools

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## ***Software for Partially Exempt Manufacturing Machinery***

- Canned or Prewritten Software
  - Purchased at any time by a manufacturer
  
- Canned or Customized Software
  - If purchased in the same transaction and from the same vendor – MRA
  - If purchased in a separate transaction - Computer and data processing services

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## ***Materials, Tools and Fuel***

- Industrial Plant Requirement
  - Used or Consumed in the Manufacturing Production Process or Any Process Preparatory or Related Thereto
  - Research and Development
  - Measuring or Testing
  - Repairing and Maintaining Machinery and Equipment
  - Used in a Tool Room to Manufacture or Repair Tools
  - Needed to Maintain a Level of Purity for Manufacturing

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## ***Partial Exemption Certificates***

- CERT-108
- CERT-109

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## ***Services***

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## ***Purchase of Services***

- Installation Services
  - Complex vs. Simple
- Repair Services
- Calibration Services
- Maintenance to Tangible Personal Property
- Fabrication Services
- Personnel Services
- Certain Consulting Services
- Training Services

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## ***Purchase of Services***

- Services to Industrial and Commercial Real Property
  - Maintenance to Real Property
  - Voluntary Evaluation, Prevention, Treatment, Containment or Removal of Hazardous Waste or Other Contaminants of Air, Water and Soil
- Environmental Consulting Services

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## ***Purchase of Services***

- Engineering Services
- Testing Services
- Design Services

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## ***Purchase of Services***

- Services Rendered Between Related “Entities”
- Resale of Services

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## ***Sales of Tangible Personal Property by Manufacturers and Others***

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### ***Sales of Tangible Personal Property***

- The Manufacturer as a Retailer
- Cash Discounts
- Exemptions
  - Resale
  - Casual Sale
  - Charitable
- Nexus
- Drop Shipments

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# Q&A

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# Thank You

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