



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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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

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

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.

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.

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

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

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.

Full Exemptions

Definitions

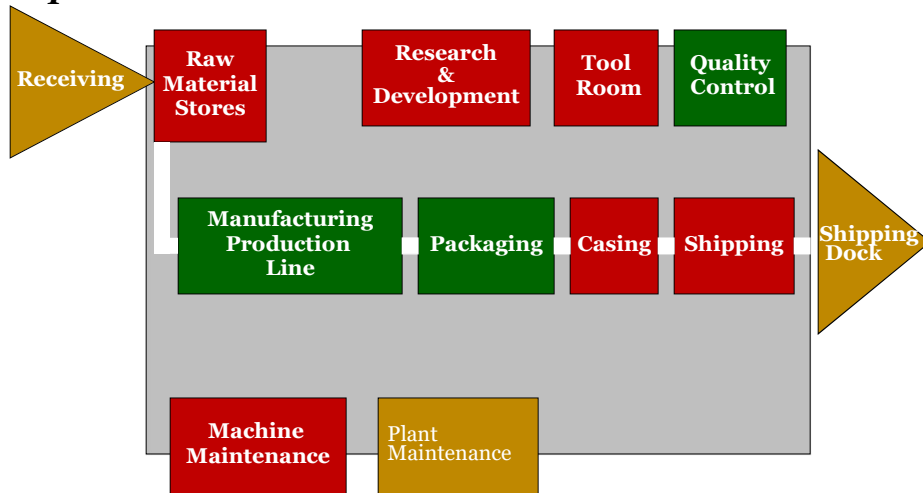
Full Exemptions

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.)

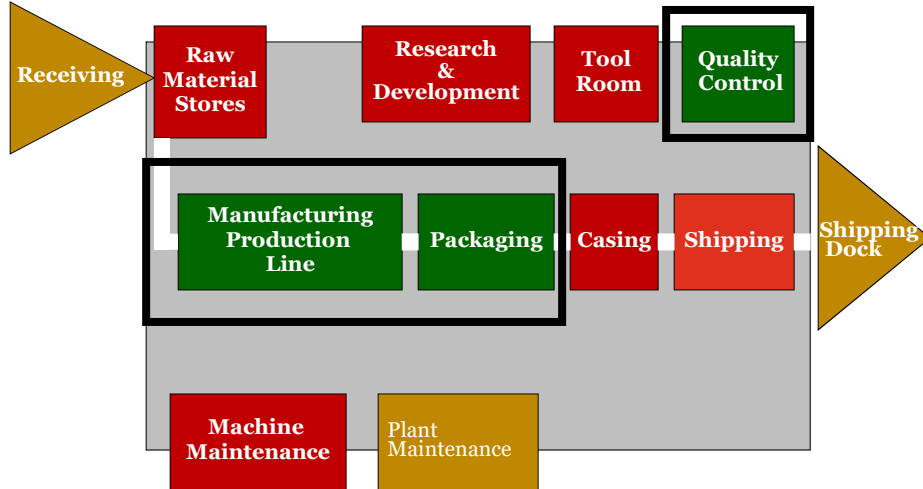
Processing: No full exemption available. (Partial exemption only.)

Full Exemption



Manufacturing Machinery

Full Exemption-Machinery



Full Exemption Manufacturing Machinery

- Machinery
- Component Parts
- Repair and Replacement Parts

Full Exemption

Manufacturing Machinery (includes component and repair/replacement parts)

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

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

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.

Repair and Replacement Parts

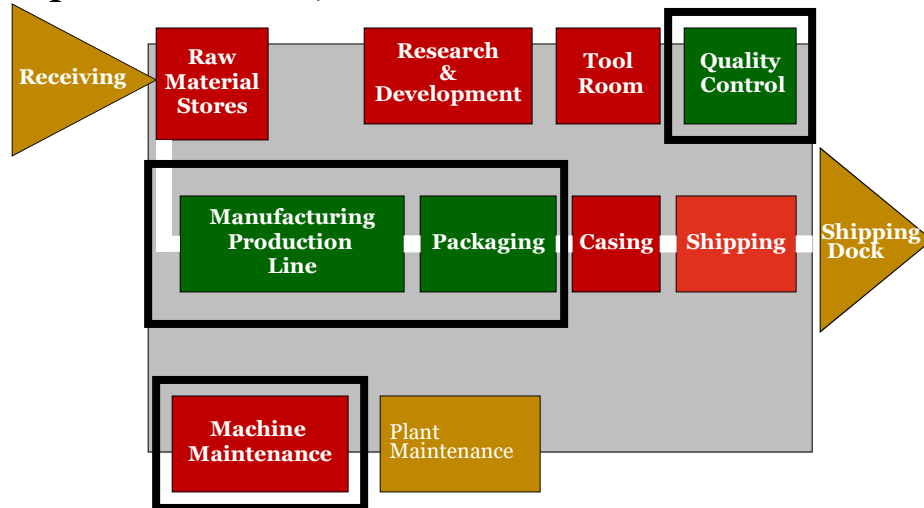
- **Repair Existing Parts**
 - Repair and replacement parts for manufacturing machinery, purchased with or separate from the machine are exempt from sales and use taxes.

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

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

Materials, Tool and Fuel

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

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

Other Exemptions

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

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

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

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

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

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

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

Full Exemption Certificates

- CERT-100
- CERT-101
- CERT-115
- Resale Certificate

- CERT-117
- CERT-124

Other Full Exemption Certificates

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

Partial Exemption

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

- Expanded the Scope of the Manufacturing Process for Manufacturers

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.)**

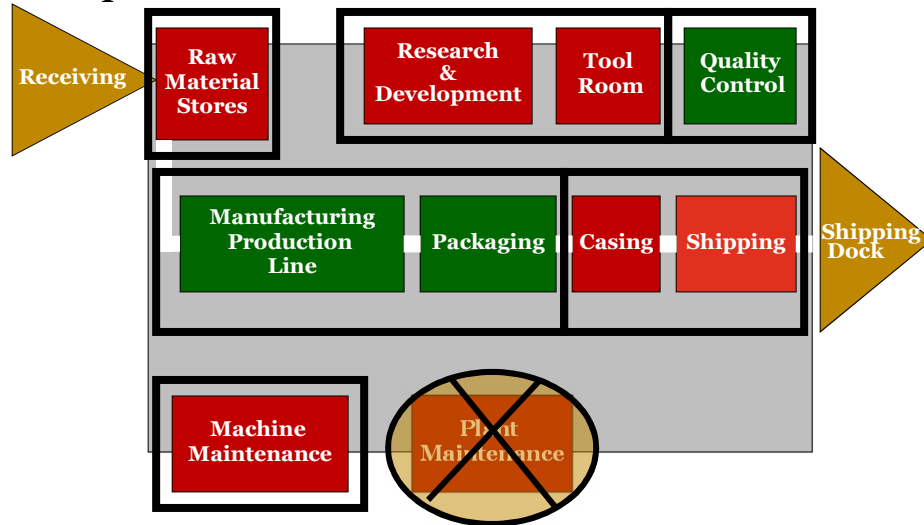
Fabricating: to make, build, create, produce or assemble components of tangible personal property so that they work in a new or different manner. (Same premise as full exemption.)

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

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



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Machinery and Equipment

- No Industrial Plant Requirement
 - Used Primarily at any stage of the Manufacturing Production Process
 - 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

Repair and Replacement Parts

- Replace Existing Parts
 - Machinery
 - Equipment
 - Tools

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

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

Partial Exemption Certificates

- CERT-108
- CERT-109

Services

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

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

Purchase of Services

- Engineering Services
- Testing Services
- Design Services

Purchase of Services

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

Sales of Tangible Personal Property by Manufacturers and Others

Sales of Tangible Personal Property

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

Q&A

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Thank You

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