

2010 Arkansas Code
Title 26 - Taxation
Subtitle 5 - State Taxes
Chapter 52 - Gross Receipts Tax
Subchapter 4 - Exemptions
§ 26-52-402

Industrial Machinery & Equipment Exemption

26-52-402. Certain machinery and equipment.

(a) There is specifically exempted from the tax imposed by this chapter the following:

(1) (A) Gross receipts or gross proceeds derived from the sale of tangible personal property consisting of machinery and equipment used directly in producing, manufacturing, fabricating, assembling, processing, finishing, or packaging of articles of commerce at manufacturing or processing plants or facilities in the State of Arkansas, including facilities and plants for manufacturing of feed, processing of poultry or eggs, or both, and livestock, and the hatching of poultry, but only to the extent that the machinery and equipment is purchased and used for the purposes set forth in this subdivision (a)(1).

(B) The machinery and equipment will be exempt under this subdivision (a)(1) if it is purchased and used to create new manufacturing or processing plants or facilities within this state or to expand existing manufacturing or processing plants or facilities within this state;

(2) (A) Machinery purchased to replace existing machinery and used directly in producing, manufacturing, fabricating, assembling, processing, finishing, or packaging of articles of commerce at manufacturing or processing plants or facilities in this state will be exempt under this subdivision (a)(2).

(B) (i) As used in subdivision (a)(2)(A) of this section, "machinery purchased to replace existing machinery" means that substantially all of the machinery and equipment required to perform an essential function is physically replaced with new machinery.

(ii) As used in subdivision (a)(2)(B)(i) of this section, "substantially" is intended to exclude routine repairs and maintenance and partial replacements that do not improve efficiency or extend the useful life of the entire machine, but it is not intended to mean that foundations and minor components that can be economically adapted, rebuilt, or refurbished must be completely replaced when replacement would be more expensive or impracticable than adapting, rebuilding, or refurbishing the old foundation or minor components.

(C) It is the intent of this subdivision (a)(2) to provide the exemptions in subdivision (a)(1) of this section and this subdivision (a)(2) as incentives to encourage the location of new manufacturing plants in Arkansas, the expansion of existing manufacturing plants in Arkansas, and the modernization of existing manufacturing plants in Arkansas through the replacement of old, inefficient, or technologically obsolete machinery and equipment; and

(3) Gross receipts or gross proceeds derived from the sale of tangible personal property consisting of machinery and equipment required by state law or regulations to be installed and utilized by manufacturing and processing plants or facilities in this state to prevent or reduce air or water pollution or contamination which might otherwise result from the operation of the plant or facility.

(4) [Repealed.]

(b) As used in this section, "manufacturing" or "processing" refer to and include those operations commonly understood within their ordinary meaning and shall also include:

(1) Mining;

(2) Quarrying;

(3) Refining;

(4) Extracting oil and gas;

(5) Cotton ginning;

(6) Drying of rice, soybeans, and other grains;

(7) Manufacturing of feed;

(8) Processing of poultry or eggs and livestock and the hatching of poultry;

(9) Printing of all kinds, types, and characters, including the services of overprinting and photographic processing incidental to printing;

(10) Processing of scrap metal into grades and bales for further processing into steel and other metals;

(11) Retreading of tires for automobiles, trucks, and other mobile equipment powered by electrical or internal combustion engines or motors;

(12) Rebuilding or remanufacturing of used parts for automobiles, trucks, and other

mobile equipment powered by electrical or internal combustion engines or motors if the rebuilt or remanufactured parts are not sold directly to the consumer but are sold for resale; and

(13) Producing of protective coatings which increase the quality and durability of a finished product.

(c) (1) (A) It is the intent of this section to exempt only such machinery and equipment as shall be used directly in the actual manufacturing or processing operation at any time from the initial stage when actual manufacturing or processing begins through the completion of the finished article of commerce and the packaging of the finished end product.

(B) As used in this subsection, "directly" is used to limit the exemption to only the machinery and equipment used in actual production during processing, fabricating, or assembling raw materials or semifinished materials into the form in which such personal property is to be sold in the commercial market.

(2) For purposes of this subsection, the following definitions, specific inclusions, and specific exclusions shall apply and represent the intent of the General Assembly as to its interpretation of the term "used directly":

(A) (i) Machinery and equipment used in actual production includes machinery and equipment that meet all other applicable requirements and which cause a recognizable and measurable mechanical, chemical, electrical, or electronic action to take place as a necessary and integral part of manufacturing, the absence of which would cause the manufacturing operation to cease.

(ii) "Directly" does not mean that the machinery and equipment must come into direct physical contact with any of the materials that become necessary and integral parts of the finished product.

(iii) Machinery and equipment which handle raw, semifinished, or finished materials or property before the manufacturing process begins are not used directly in the manufacturing process.

(iv) Machinery and equipment which are necessary for purposes of storing the finished product are not used directly in the manufacturing process.

(v) Machinery and equipment used to transport or handle a product while manufacturing is taking place are used directly;

(B) Machinery and equipment used directly in the manufacturing process includes without limitation the following:

(i) Molds, frames, cavities, and forms that determine the physical characteristics of

the finished product or its packaging material at any stage of the manufacturing process;

(ii) Dies, tools, and devices attached to or a part of a unit of machinery that determine the physical characteristics of the finished product or its packaging material at any stage of the manufacturing process;

(iii) Testing equipment to measure the quality of the finished product at any stage of the manufacturing process;

(iv) Computers and related peripheral equipment that directly control or measure the manufacturing process; and

(v) Machinery and equipment that produce steam, electricity, or chemical catalysts and solutions that are essential to the manufacturing process but which are consumed during the course of the manufacturing process and do not become necessary and integral parts of the finished product;

(C) Machinery and equipment "used directly" in the manufacturing process shall not include the following:

(i) Hand tools;

(ii) Machinery, equipment, and tools used in maintaining and repairing any type of machinery and equipment;

(iii) Transportation equipment, including conveyors, used solely before or after the manufacturing process has been started or completed;

(iv) Office machines and equipment including computers and related peripheral equipment not directly used in controlling or measuring the manufacturing process;

(v) Buildings;

(vi) Machinery and equipment used in administrative, accounting, sales, or other such activities of the business;

(vii) All furniture;

(viii) All other machinery and equipment not used directly in manufacturing or processing operations as defined in this section; and

(ix) Machinery and equipment used by a manufacturer to produce or repair replacement dies, molds, repair parts, or replacement parts used or consumed in the manufacturer's own manufacturing process.

(d) The Director of the Department of Finance and Administration may promulgate rules and regulations for the orderly and efficient administration of this section.

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