

Chapter 03 Manufacturers and Custom Processors

100 General

101 Mississippi sales tax law provides for a reduced rate and certain exemptions for manufacturers and custom processors. The reduced rate of 1 ½% applies to the sale or rental of manufacturing machinery and machine parts which are used directly in the manufacturing process. Manufacturers and custom processors are also eligible for an exemption on purchases of electricity and natural gas used in the manufacturing process, as provided either by Miss. Code Ann. Section 27-65-107(f) or 27-65-111(n) used in an engine. Sales of raw materials, catalysts, processing chemicals, welding gases or other industrial gases to a manufacturer for use directly in manufacturing or processing a product for sale or rental are exempt.

102 (Reserved)

200 Manufacturer, Custom Processor and Manufacturing Activities

201 A "manufacturer" is defined as a person who is exclusively or predominately engaged in the business of fabricating, compounding or creating from his own raw materials or ingredients any tangible personal property by the application of skill and labor, either by hand or through the use of machinery, for sale or rental through the regular channels of trade.

202 "Manufacturing" refines, improves, changes the condition of raw materials or converts the form of the materials into new, different or more useful property and includes the fabrication or production of special made-to-order articles and the generation of electricity. A person who is engaged in manufacturing and non-manufacturing activities may be classified as a manufacturer as to his manufacturing activities that are operated as a separate business or division.

203 Persons performing work such as logging operations, cooking and serving food by a restaurant, washing and screening sand and gravel, mining, severing or otherwise producing natural resource products, transporting raw materials from place of production to point of processing, etc., are not considered manufacturers. Neither are persons performing such activities as hatching and raising baby chicks for market considered to be manufacturers.

204 A "remanufacturer" is defined as a person who is engaged in performing activities of an industrial or commercial nature wherein labor or skill is applied by hand or machinery, to materials, a portion of which may belong to the customer, so that rebuilt articles of tangible personal property, comparable in quality to new articles of the same property, are created, a majority of the value of which is produced by the remanufacturing activity.

205 A "custom processor" is defined as any person who performs a manufacturing or remanufacturing service done or made to order upon the property of the customer and includes laundering, cleaning and pressing.

206 Remanufacturing or custom processing does not include repairs or maintenance which restores the property to a workable condition and which does not constitute a majority of the value of the property repaired.

- 207 "Manufacturing plant" means the real and personal property owned or leased by a manufacturer which is assembled and used at a fixed location to perform activities defined as manufacturing.
- 208 "Manufacturing" begins at the point where the raw materials are transferred to the actual processing operation from storage or stock pile at the plant, and ends when the manufactured product leaves the assembly line for storage or shipment, and includes the processing of the by-product or waste materials to avoid air and water pollution.
- 209 (Reserved)
- 300 Manufacturing Machinery
- 301 "Manufacturing machinery" is that machinery used within a plant exclusively and directly in manufacturing a commodity for sale, rental or in custom processing for a fee. Motorized units and other conveyor systems serving a specific function within the line of process at the plant site will be classed as manufacturing machinery, as well as equipment used in the processing of waste materials to avoid air and water pollution.
- 302 Purchases of pollution control equipment by manufacturers and custom processors are exempt from sales or use tax. The term "pollution control equipment" means equipment, devices, machinery or systems used or acquired to prevent, control, monitor or reduce air, water or ground water pollution, or solid or hazardous waste as required by federal or state law or regulation. The use of pollution control equipment for other purposes would not result in the exemption being disallowed.
- 303 The taxpayer will be required to substantiate that any equipment purchased for purposes of pollution control does qualify for the exemption. The taxpayer must provide certification from a professional engineer that the purchases do meet the requirements of the exemption with regard to the prevention, control, monitoring, or reduction of air, water or ground water pollution or solid or hazardous waste. The certification must provide a list of the purchases and a description of the use of such purchases.
- 304 Replacement and/or repair parts for pollution control equipment are exempt from tax if the initial purchase of the equipment to be repaired or refurbished was or would have been exempt. The exemption would also apply to the repair labor.
- 305 Manufacturing machinery does not include machinery for use in the severance of timber, sand, gravel, oil, gas or other natural resources produced or severed from the soil or water, maintenance or repair machinery, research laboratory machinery, storage facilities warehouse machinery, equipment for protection of the plant or comfort of the personnel or other equipment and supplies of like character. Equipment used in the treatment of water by a manufacturer qualifies for the reduced rate of tax. Equipment used in the treatment of water by a public or private water system or sewage system is not classified as manufacturing machinery and does not qualify for the reduced rate of tax. The term "manufacturing machinery" does not include foundations or materials for their construction, nor does it include portable equipment that is not assembled and used at a fixed location.

- 306 “Machine parts” are component parts of manufacturing machinery and do not include parts for service equipment, non-manufacturing machinery, fuels, lubricants, paints or tools for maintenance.
- 307 (Reserved)
- 400 Tax Rates for Sales and Purchases
- 401 Machinery, tools or repair parts or replacements, fuel or supplies used directly in manufacturing, converting or repairing ships of three thousand (3,000) tons load displacement and over are exempt from sales or use tax. Office and plant supplies or other equipment not directly used on the ship being built, converted or repaired are subject to the regular retail rate of tax.
- 402 Exempt sales by manufacturers include sales of component materials to contractors with a valid material purchase certificate number, sales to other manufacturers for further processing, sales to licensed dealers or retailers for resale through the regular course of business, or sales to exempt customers (city, governmental agencies, etc.). Sales of manufacturing machinery or machine parts to other manufacturers are taxable at the 1 ½% reduced rate of sales tax. Sales to other consumers or users are subject to the regular retail rate of tax.
- 403 Purchases by manufacturers of raw materials which become a component part of the finished product, containers for sale with the finished product, or catalysts, chemicals or gases used directly in processing are exempt from sales or use tax. Purchases of electric power or other fuel used directly in the manufacturing process are exempt as provided by Miss. Code Ann. Section 27-65-107(f) or 27-65-111(n). Purchases of machinery or machine parts used directly in the manufacturing process are taxable at the 1 ½% reduced rate of sales or use tax. Purchases of all other equipment, utilities and supplies (furniture, fixtures, cleaning materials, etc.) are taxable at the regular retail rate of tax. Pursuant to 27-65-21(1)(a)ii, amounts included in commercial construction contracts with manufacturers representing the sale of manufacturing machinery shall be taxed at the 1 ½% reduced rate of tax in lieu of the 3 ½% contractors’ sales tax.
- 404 Delivery charges are subject to sales tax when billed by vendor even though such amounts are separately stated on the seller's invoice apart from the sales price of the property.
- 405 Freight charges are subject to use tax irrespective of method billed or paid.
- 406 Owners or other persons receiving benefit from use of tangible personal property in this State are liable for use tax on such property.
- 407 Charges for labor on repairs rendered at out-of-state locations are exempt where specifically identifiable.
- 408 Rental or lease of machinery and other tangible personal property by a manufacturer is taxed at the same rates as sales of the same property except manufacturing machinery rented to a manufacturer or custom processor for use in the manufacture of wood containers for sale is exempt from tax.

- 409 Adequate records must be maintained to substantiate tax classification of sales and purchases.
- 410 (Reserved)
- 500 Methods of Reporting and Paying of Sales and Use tax
- 501 All manufacturers and custom processors, with certain exceptions, are required to obtain a Direct Pay Permit for purposes of reporting and paying to the Department of Revenue the sales and use tax applicable to purchases or rentals of tangible personal property, utilities, with the exception of telecommunications, and services in lieu of payment of the tax to the vendor. If the permit holder continues to remit sales tax to the vendor rather than directly to the state, the permit holder will be required to contact the vendor for a credit or refund of any overpayment resulting from this practice. This will be required in all instances, even if the overpayment is discovered during a sales or use tax audit where there will be an assessment of additional tax made. No refunds or overpayments will be allowed beyond the Statute of Limitations as provided for in Miss. Code Ann. Section 27-65-42 Manufacturers must file a use tax report covering all sales and use tax due on purchases and a sales tax report covering all sales to consumers.
- 502 (Reserved)