

**Revenue Information Bulletin
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Sales Tax**

Act Provides State Sales Tax Exemption on Parts, Repairs, or Replacements for Hurricane-Damaged Manufacturing Equipment

Act 47 of the 2005 First Extraordinary Session of the Louisiana Legislature has enacted a sales tax exemption on purchases, leases and rentals of manufacturing machinery and equipment, repair parts, and repair services that are acquired for the replacement or refurbishment of equipment that was damaged or destroyed as the result of conditions created by Hurricanes Katrina or Rita. The exemption is effective December 6, 2005 and will remain in effect through June 30, 2007.

Just as does the exemption that was enacted in 2004 for manufacturing equipment, that is being phased in over a 10-year period, the exemption provided by Act 47 applies to machinery, equipment, parts, and repair services used by a manufacturer in a plant facility predominately and directly in the actual manufacturing for agricultural purposes or in the actual manufacturing process of an item of tangible personal property which is for ultimate sale to another and not for internal use by the manufacturer at one or more fixed locations in Louisiana. The definitions provided in the 2004 statute for the terms “machinery and equipment”, “manufacturer”, “manufacturing”, “manufacturing for agricultural purposes”, “plant facility”, and “used directly” also apply to the same terms used in Act 47. Businesses that qualify for exemption under Act 47, however, will be entitled to a state sales tax exemption on the full sales price, cost price, or lease and rental price of eligible purchases, leases, and rentals, instead of an exemption only on 19% of the acquisition price that is applicable during the period July 1, 2004 through June 30, 2006, or on the 35% of the price that is applicable from July 1, 2006, through June 30, 2007.

The phased-in percentage exemptions under the 2004 law will continue to apply to acquisitions of manufacturing machinery and equipment other than that for the replacement or refurbishment of hurricane-damaged or destroyed equipment.

Eligible manufacturers must apply for and receive exemption certificates from the Department of Revenue in order to be able to claim the full exemption provided by Act 47. Each application must include a signed and notarized statement of the principal, partner, member, or officer of the business certifying that:

- the business is a “manufacturer”, as that term is defined by R.S. 47:301(3)(i)(iii), and
- the machinery, equipment, parts, or services purchased, leased, or rented without the payment of state sales tax will be used to replace or repair manufacturing machinery and equipment damaged by wind, water, fire, or criminal act as a result of conditions created by Hurricanes Katrina or Rita.

Application forms can be downloaded from the department’s web site at [http://www.revenue.louisiana.gov/forms/taxforms/1049\(12_05\)F.pdf](http://www.revenue.louisiana.gov/forms/taxforms/1049(12_05)F.pdf).

Act 47 authorizes the Department of Revenue to issue refunds of state sales taxes that any eligible manufacturer has paid on purchases, leases, and rentals of eligible equipment, parts, and services prior to the manufacturer's receipt of an exemption certificate from the department, provided that the transactions were entered into subsequent to the hurricanes for the purpose of repairing or replacing hurricane damaged or destroyed equipment.

Other Qualifications for Exclusion

Other requirements for exemption eligibility are the same as those provided for the 2004 phased-in exemptions for manufacturing equipment.

In order for tangible personal property to be excluded from sales taxation under Act 47, the tangible personal property must be:

- **Manufacturing “machinery and equipment”**

“Machinery and equipment” is defined by R.S. 47:301(3)(i)(ii)(aa) as tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part in the manufacturing of tangible personal property for sale. “Machinery and equipment” also includes tangible personal property or other property that is eligible for depreciation for federal income tax purposes and that is used as an integral part of the production, processing, and storing of food and fiber or of timber.

Specific examples of tangible personal property that are categorized by R.S. 47:301(3)(i)(ii)(aa)(I) as eligible “machinery and equipment” are computers and software that are an integral part of the machinery and equipment used directly in the manufacturing process; machinery and equipment necessary to control pollution at a plant facility where pollution is produced by the manufacturing operation; machinery or equipment used to test or measure raw materials, the property undergoing manufacturing, or the finished product, when such test or measurement is a necessary part of the manufacturing process; and machinery and equipment used by an industrial manufacturing plant to generate electric power for self-consumption or cogeneration.

Categorized by R.S. 47:301(3)(i)(ii)(aa)(II) as ineligible for the manufacturing “machinery and equipment” exclusions are a building and its structural components, unless the building or structural component is so closely related to the machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced; heating, ventilation, and air-conditioning systems, unless their installation is necessary to meet the requirements of the manufacturing process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, non-production activities; tangible personal property used to transport raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete; and tangible personal property used to store raw materials or manufactured goods prior to the beginning of the manufacturing process or after the manufacturing process is complete.

- **Used by a “manufacturer”**

R.S. 47:301(3)(i)(ii)(bb) defines the term “manufacturer” as a person whose principal activity is manufacturing, and who is assigned by the Louisiana Department of Labor a North American Industry Classification System (NAICS) code within the agricultural, forestry, fishing, and hunting Sector 11 or the manufacturing Sectors 31-33, as they existed in 2002; or a person whose principal activity is manufacturing and who is not required to register with the Louisiana Department of Labor for purposes of unemployment insurance, but who would be assigned a NAICS code within the agricultural, forestry, fishing and hunting Sector 11 or the manufacturing Sector 31-33 as they existed in 2002, as determined by the Louisiana Department of Revenue from federal income tax data, if he were required to register with the Louisiana Department of Labor for purposes of unemployment insurance.

- **Used by that manufacturer in a “plant facility” predominantly and “directly” in the actual “manufacturing for agricultural purposes” or in the actual “manufacturing” process of an actual item of tangible personal property which is for ultimate sale to another, and not for internal use, at one or more fixed locations in Louisiana**

The term “plant facility” is defined by R.S. 47:301(3)(i)(ii)(ee) as “a facility, at one or more locations, in which manufacturing referred to in sectors 11 and 31-33 of the North American Industry Classification System of 2002, of a product of tangible personal property takes place.” “Used directly”, under R.S. 47:301(3)(i)(ii)(ff), means used in the actual process of manufacturing or manufacturing for agricultural purposes.

“Manufacturing for agricultural purposes,” under R.S. 47:301(3)(i)(ii)(dd), means the production, processing, and storing of food and fiber and the production, processing, and storing of timber.

“Manufacturing”, R.S. 47:301(3)(i)(ii)(cc) provides, means putting raw materials through a series of steps that brings about a change in their composition or physical nature in order to make a new and different item of tangible personal property that will be sold to another. The act provides that manufacturing begins at the point at which raw materials reach the first machine or piece of equipment involved in changing the form of the material and ends at the point at which manufacturing has altered the material to its completed form. Placing materials into containers, packages, or wrapping in which they are sold to the ultimate consumer is part of this manufacturing process.

R.S. 47:301(3)(i)(ii)(cc) further provides that for purposes of the sales tax exclusions, manufacturing does not include repackaging or redistributing; the cooking or preparing of food products by a retailer in the regular course of retail trade; the storage of tangible personal property; the delivery of tangible personal property to or from the plant; the delivery of tangible personal property to or from storage within the plant; and actions such as sorting, packing, or shrink wrapping the final material for ease of transporting and shipping.

Questions concerning this exclusion can be directed to the Taxpayer Services Division at 225.219.7356.

Cynthia Bridges
Secretary

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