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Ohio Sales Tax – Manufacturing

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Agenda

- Ohio Manufacturing Exemption
  - Qualify for the exemption
  - Do not qualify for the exemption
  - Percentages of taxability
- Software
- Research and development
- Updates
- Wayfair
  - Exemption certificate – collection
- Drop shipment
- Variations

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Ohio Sales/Use Tax – General

- Use tax is the complement to sales tax.
  - Sales tax is collected by the seller and remitted to the state, while use tax is self-assessed by the purchaser when sales tax is not charged at the time of purchase.
- The sale of personal property is taxable unless there is an exemption.
- The sale of services are exempt unless specifically called out as taxable. There is a list of taxable services otherwise exempt.
- The repair or installation of personal property is taxable.
  - If there is a sales tax exemption for item, then repair and installation will also be exempt.

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Ohio Manufacturing Exemption

- Ohio Revised Code 5739.02(B)(42) and Ohio Rule 5703-9-21
- Manufacturer is defined as “a person who is engaged in manufacturing, processing, assembling or refining a product for sale and, solely for the purposes of division (B)(12) of this section, a person who meets all of the qualifications of that division.”
  - Refining is defined in the Revised Code as removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.
  - Assembly and assembling is defined in the Revised Code as attaching or fitting together parts to form a product, but do not include a packaging product.

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Ohio Sales Tax

- Ohio Manufacturing Rule 5703-9-21
- ◊ Section C –exempt manufacturing activities
  - Examples for each type of activity
- ◊ Section D – taxable items within the manufacturing environment
  - Examples for each type of activity

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Ohio Manufacturing Exemption

- Completing repairs of TPP owned by another party does not qualify.
- Per Ohio Administrative Code 5703-9-14 (F)(1), a taxpayer that operates as both a manufacturer and a contractor must elect to be treated as one or the other on the purchase of raw materials.
  - Example: Window manufacturer that also completes installation.

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Ohio Manufacturing Exemption

- Manufacturing Operation – This is defined in Ohio Rule 5703-9-21 as “a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending or otherwise committing such materials or parts to the manufacturing process.”

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Ohio Manufacturing Exemption

Beginning of the manufacturing operation –

- Raw materials are committed to the manufacturing process when any of the following occur.
  1) Where materials handling from initial storage has ceased
  2) Where materials handling from the place of receipt ceases (without initial storage)
  3) Where materials have been mixed, measured, blended, heated, cleaned, or otherwise treated or prepared for the manufacturing process
  4) Different materials can have different points of commitment

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Ohio Manufacturing Exemption

End of the manufacturing operation –

- The manufacturing operation has ended when the item being manufactured will have no further alterations to it and is considered to be a competed product (or finished good).
- A completed product is a manufactured item that is in the form and condition as it will be sold by the manufacturer.

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Ohio Manufacturing Exemption

- Packaging does not qualify for the manufacturing exemption; however, a specific packaging exemption exists under O.R.C. 5739.02 (B)(15)
- Separate exemption certificate to be provided - Not part of the manufacturing operation or manufacturing exemption.
- “Packages” include bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices or containers.
    - Restrict in two directions.

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Ohio Manufacturing Exemption – Items That Qualify for Exemption

- Items that qualify for the manufacturing exemption include but are not limited to the following:
  - Production machinery and equipment that act upon the product
    - ✓ Also included are parts, components, and repair and installation services for such equipment

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Ohio Manufacturing Exemption - Items That Qualify for Exemption

- Material handling equipment.
- Machinery, equipment, and other tangible personal property used during the manufacturing operation that control, physically support, produce power for, lubricate, or are otherwise necessary for the functioning of production machinery and equipment and the continuation of the manufacturing operation.
  - Catalysts, solvents, water, acids, oil, and similar consumables

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Ohio Manufacturing Exemption

- Materials handling is defined in the Revised Code as the movement of the product being or to be manufactured, during which movement the product is not undergoing any substantial change or alteration in its state or form.



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Ohio Manufacturing Exemption - Items That Qualify for Exemption

- Machinery, equipment, fuel, power, material, parts, and other tangible personal property used to manufacture machinery, equipment, or other tangible personal property used in manufacturing a product for sale



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Ohio Manufacturing Exemption - Items That Qualify for Exemption

- Equipment directly used in testing any of the following:
  1. Raw materials
  2. The product being manufactured
  3. The completed product



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Ohio Manufacturing Exemption - Items That Qualify for Exemption

- Machinery and equipment used to handle or temporarily store scrap that is intended to be reused in the manufacturing operation at the same manufacturing facility



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Ohio Manufacturing Exemption - Items That Do Not Qualify for Exemption

- Tangible goods used in administrative, inventory control, or similar functions
- Storage of raw materials prior to commitment to the manufacturing operation
- Equipment used for materials handling of raw materials prior to commitment to the manufacturing operation

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Ohio Manufacturing Exemption - Items That Do Not Qualify for Exemption

- Equipment used for materials handling of finished goods
- Storage of finished goods
- Storage of process consumables



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Ohio Manufacturing Exemption - Items That Do Not Qualify for Exemption

- Machinery, equipment and other tangible property used for ventilation, dust or gas collection, humidity or temperature regulation, or similar environmental control
  - ✓ Exception would be if it totally regulates the environment in a special and limited area necessary for production to occur
    a. Clean room
    b. Paint booth

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Ohio Manufacturing Exemption - Items That Do Not Qualify for Exemption

- Tangible personal property used for protection or safety of workers
  - ✓ Exception would be if the property were attached or incorporated into machinery and equipment used in the manufacturing operation

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Ohio Manufacturing Exemption - Items That Do Not Qualify for Exemption

- Motor vehicles registered for operation on public highways
  - ✓ Vehicles moving goods between manufacturing facilities prior to work in process becoming finished goods would not qualify.



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Ohio Manufacturing Exemption - Percentage

- Items used within the manufacturing process can be used in both a taxable and exempt manner.
- Primary use for machinery.
- ORC 5739.011(D)
  A machine that is used by a manufacturer in both a taxable and exempt manner is treated as either totally taxable or totally exempt based upon its quantified primary use.

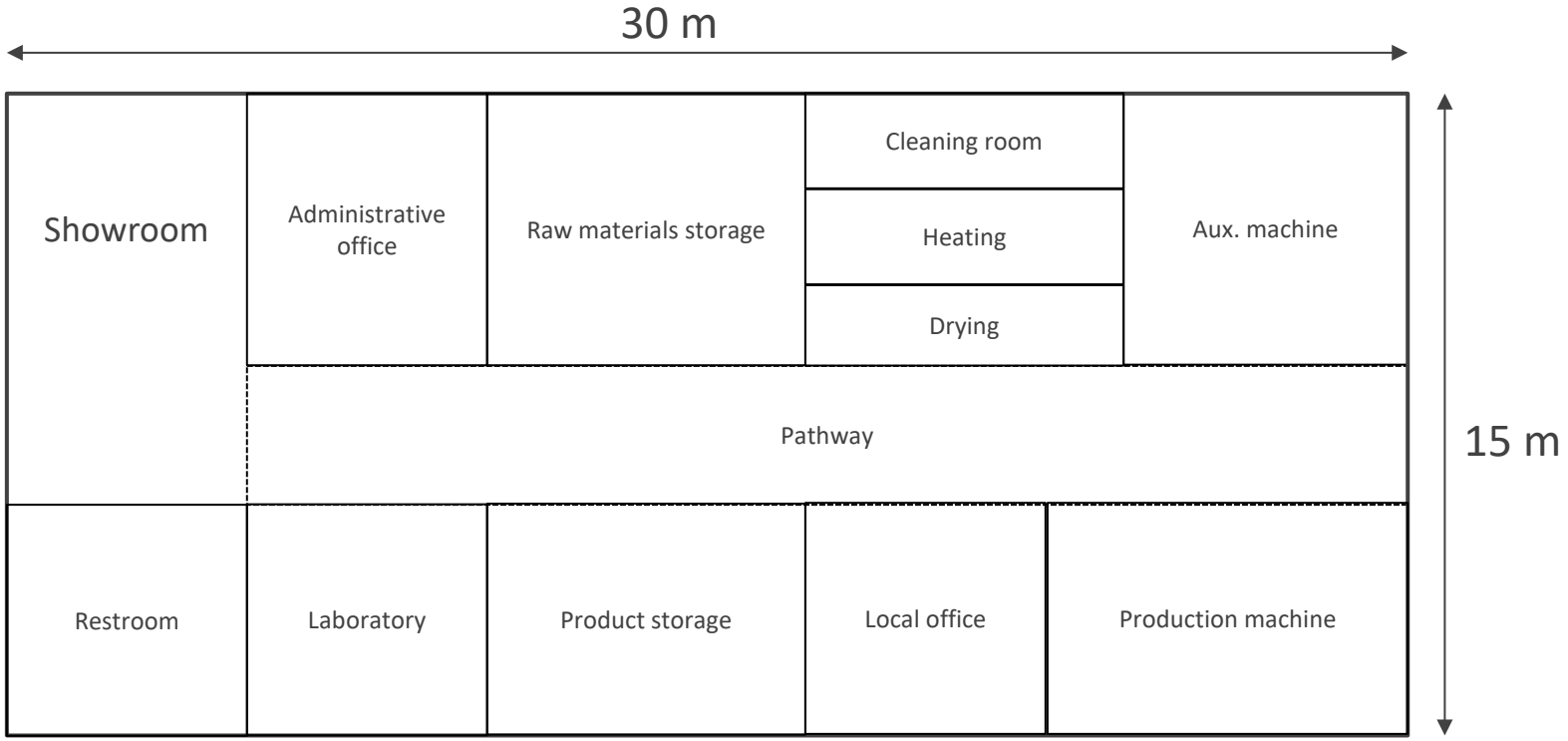
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Ohio Manufacturing Exemption - Percentage

- Treatment of fungibles.
  - ORC 5739.011(D)
    - Fungibles that are used in both a taxable and exempt manner shall be taxed upon the proportion of the fungibles used in a taxable manner.
    - Percentage of taxability determined by study completed by ODT and taxpayer.
- Items for which use is difficult to determine.
- Examples:
  - Natural gas
  - Propane for forklifts
  - Small parts and tools

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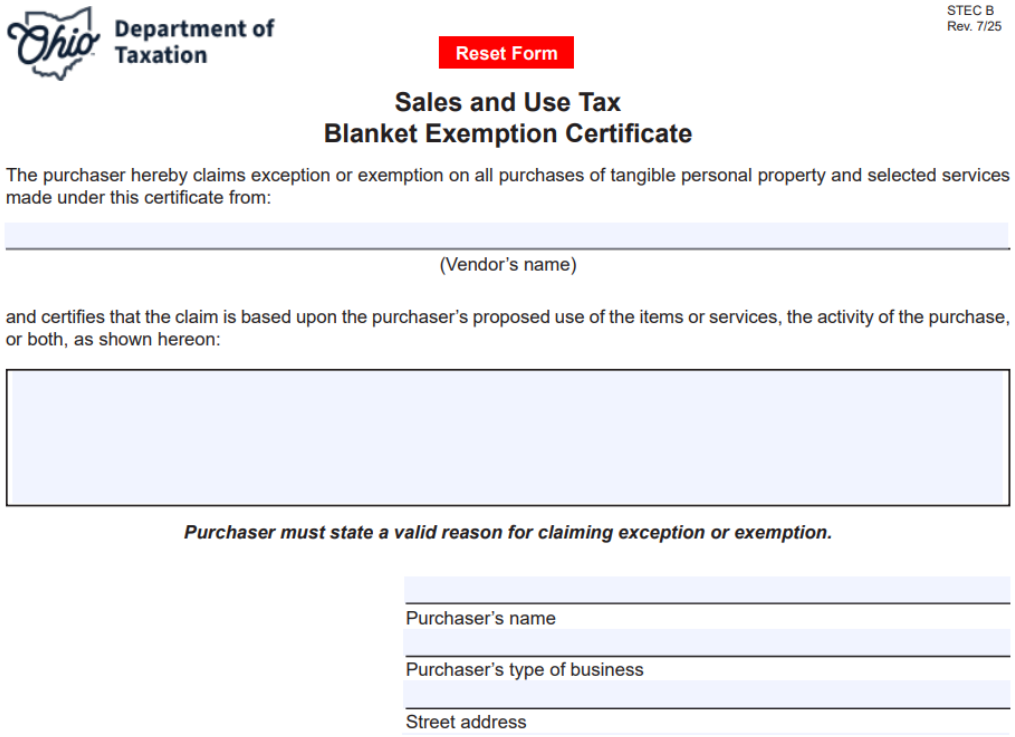
Ohio Sales Tax



Proposed factory plan

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Ohio Manufacturing Exemption – Forms



Department of Taxation

STEC B
Rev. 7/25

Reset Form

Sales and Use Tax
Blanket Exemption Certificate

The purchaser hereby claims exception or exemption on all purchases of tangible personal property and selected services made under this certificate from:

(Vendor's name)

and certifies that the claim is based upon the purchaser's proposed use of the items or services, the activity of the purchase, or both, as shown hereon:

Purchaser must state a valid reason for claiming exception or exemption.

Purchaser's name

Purchaser's type of business

Street address

Source: Ohio Department of Taxation ST_STEC B_GEN_FI

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Ohio Manufacturing Exemption - Software

- General Rule -
  - Taxability depends on (1) how the software is delivered, (2) whether it is prewritten (canned) or custom, and (3) whether related services fall under “automatic data processing,” “computer services,” or “electronic information services.”
  - Mandatory maintenance contracts
    - If tied to prewritten software → taxable
    - If tied to custom software → exempt
    - Optional maintenance contracts
      - Updates/upgrades only → treated as sale of prewritten software → taxable
      - Support-only (no updates) → Treated as a professional service → non-taxable
      - Mixed (updates + support) without separate itemization → entire contract taxable

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Ohio Manufacturing Exemption - Software

- Software that was used to control production machinery based upon CAD-CAM drawings qualified for the manufacturing exemption



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Ohio Manufacturing Exemption – R&D

- ORC 5739.01(GG)
  - Research and development
    - Designing, creating new products, equipment or manufacturing processes
    - Conducting scientific experiments to increase scientific knowledge that might reveal new products, equipment or manufacturing processes



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Ohio Manufacturing Exemption – R&D



Ohio Manufacturing Rule 5703-9-21



Does not include R&D provision however it references the R&D exemption listed separately outside Ohio manufacturing exemption



R&D exemption covers:

- R&D capitalized equipment
- R&D expenses taxable
- Items purchased for recording & storing R&D results taxable.

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Ohio Manufacturing Exemption – R&D

Testing

- Limited to manufacturers
- Tangible personal property
- Raw materials, in-process or completed product

Research and development

- Not limited
- Capitalized items only
- New products or product, processes and experiments

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Ohio Manufacturing Exemption – Updates

Ohio Rule 5703-9-21 (C)(13) – Clarifies that things used in a manufacturing operation includes equipment and supplies used as part of continuous manufacturing operation to produce food. Previously limited to dairy production.

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Ohio Manufacturing Exemption – Updates

- Sales/use tax exemption eliminated
- As of 1/1/26 purchases of these items are taxable:
  - Newspapers
  - Data center property
  - Promotional and advertising materials, including property that describes and prices products
  - Refrigerated vending machines
  - Equipment used to make printed advertisements and materials
  - Telecommunication services used by a qualified call center
  - Property used by electronic publishing providers

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Wayfair Discussion (i.e., Economic Nexus)

- If you are a 100% Ohio business – Wayfair economic nexus rules do not apply to me…FALSE
- What I sell is exempt – Wayfair economic nexus rules do not apply to me…FALSE
- If you ship product outside the state, Wayfair rules will apply
  - Some states will include all sales in the annual sales $ threshold.
  - Some states will have a transaction count and an annual sales $ threshold rule.
- Do you have exemption certificates for your sales shipped out of the state?

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Wayfair Discussion (i.e., Economic Nexus)

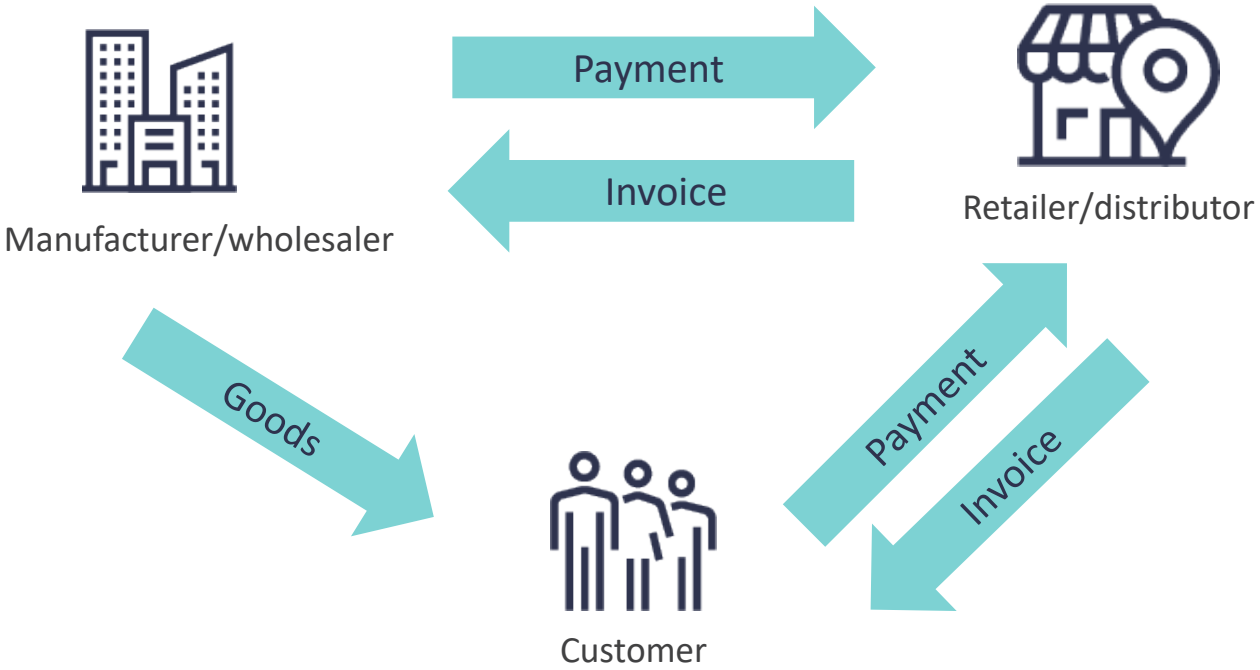
- Recommendation – a review is needed to determine where the company has sales tax economic nexus
- Recommended practice – exemption certificate request for all sales

Kansas	N/A	N/A	$100,000	Either the prior or current calendar year	All gross receipts
Kentucky	200	Or	$100,000	Either the prior or current calendar year	Sales by a retailer

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Ohio Sales Tax – Drop Shipment Scenario

- What is a drop shipment?



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Ohio Sales Tax – Drop Shipment Scenario

- Resale transaction with manufacturer and vendor, however, each state has their own rules regarding the exemption certificate.
- With the Wayfair rules, it is important to discuss the state rules you are shipping to and what is permitted regarding home state exemption vs. exemption certificate for state shipping to.

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Regional Variations – Michigan (Industrial Processing IP Exemption)

Exempt:

- Machinery/equipment used directly in industrial processing
- Production materials incorporated into the product
- Certain R&D, storage, and quality-control activities only if they occur within the integrated IP cycle
- Michigan’s definition is significantly broader than many states, expressly encompassing pre-production (R&D, design), in-process activities, and certain post-production handling that remains integrated with production

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Regional Variations - Michigan (Industrial Processing IP Exemption)

- Purchaser must list the percentage of use attributable to IP on exemption certificate. (apportionment required).
- Packaging exemption is not as broad as Ohio only qualifies if the packaging is part of the IP process. (e.g., packaging necessary to place product into marketable form).

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Regional Variations – Indiana

- Indiana's manufacturing definition is strict vs. other states.
- Businesses must truly be engaged in production of tangible personal property for sale, not merely assembling kits, sorting, fulfillment services.

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Regional Variations – Indiana

- Equipment qualifies when it has an immediate effect on the product being manufactured.
- Examples include:
  - Production-line machinery
  - Processing equipment
  - Fabrication tools
  - Testing equipment used during production (not post-production transportation or warehousing)

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Regional Variations – Indiana

- Potential exempt – case by case.
  - Computers
  - Material-handling
- Packaging exemption – applies when the purchaser adds contents and sells the contents in that packaging. Packaging equipment is not exempt unless the business is selling the packaged product – not merely providing packaging services.

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Regional Variations – Pennsylvania

- To qualify, property **must be**:
  - Used directly by a person engaged in manufacturing or processing and.
  - Predominantly (more than 50%) used directly in those manufacturing or processing operations.

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Regional Variations – Pennsylvania

- The exemption specifically covers:
  - Machinery
  - Equipment
  - Parts
  - Foundations supporting exempt machinery
  - Supplies used directly in manufacturing

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Regional Variations – Kentucky

- Exempts “machinery for new and expanded industry” that is directly used in manufacturing/industrial processing and first incorporated into Kentucky plant facilities.
- Exempts materials, supplies with <1-year life, and certain industrial tools directly used in the continuous, integrated manufacturing process.

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Regional Variations – West Virginia

- West Virginia exempts sales of materials, supplies, and equipment that are directly used in manufacturing and that are integral and essential to the production process.

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Regional Variations – West Virginia

- **Begins** upon arrival of raw materials and their first movement into the production process.
- **Ends** when the product has reached the point where no further physical or chemical changes will be made.

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Regional Variations – West Virginia

- **Note**:
  - Material-handling equipment used before manufacturing begins (e.g., forklifts moving raw materials to initial storage for production use)

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Thank you!

Theresa Mullen
Principal
theresa.mullen@CLAconnect.com

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