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Pennsylvania Sales and Use Tax
No. SUT-05-003
Property Used in Manufacture of Electricity

ISSUE

Do Taxpayer's purchases of natural gas, machinery, equipment, parts and supplies qualify for the manufacturing exclusion when the purchases are used directly and predominately to produce electricity at its generating peaking power facility?

CONCLUSION

Yes. Taxpayer's purchases of natural gas, machinery, equipment, parts and supplies qualify for the manufacturing exclusion and are not subject to Pennsylvania sales and use tax when directly used in the production of electricity at its generating peaking power facility.

FACTS

Taxpayer is a Delaware corporation. It owns a generating peaking power facility in Pennsylvania. The Facility produces electricity which Taxpayer sells to a public utility. The public utility resells the electricity to its retail customers.

Natural gas is used to produce electricity at the Facility. The method used injects the natural gas purchased by Taxpayer into the production system. The natural gas is combusted and expanded through gas turbines. This combustion and expansion causes the turbines to spin, producing electricity.

Taxpayer purchases the natural gas that is consumed at the Facility. Although electricity may be produced in the Facility using two methods, currently, only one method is used; and there are no plans to again use the exhausted gases to produce electricity through their injection into steam generators.

DISCUSSION

Pennsylvania imposes a sales tax of six percent on each separate sale at retail of tangible personal property sold within the Commonwealth 72 P.S. 7202(a). An exclusion is provided from the definitional section of sale at retail for machinery, equipment, parts, and supplies used or consumed directly and predominately in the manufacturing operation. 72 P.S. 7201(k).

In accordance with this exclusion, machinery, equipment, parts and supplies, including the purchase of natural gas, used or consumed directly and predominantly in the production of electricity by a generating peaking power facility would not be subject to Pennsylvania sales and use tax.