



**September 11, 2003 (Reissued September 12, 2008)**  
**Pennsylvania Sales and Use Tax**  
**No. SUT-03-050**  
**Manufacturing of Property Not Owned by Manufacturer**

ISSUE:

Does Taxpayer qualify as a manufacturer if Taxpayer's Parent pays Taxpayer to produce, package, and store a product that Taxpayer manufactures in its facility using raw material provided by Parent?

CONCLUSION:

Yes. Taxpayer's business activities are that of a manufacturer when its operations result in the production of a product different in form and composition from raw materials provided by its Parent; and Parent pays Taxpayer to produce, package, and store the product until Parent sells product.

FACTS:

Taxpayer is a wholly-owned subsidiary of Parent; and is engaged in the manufacture of skin lotions and skin moisturizers. Parent provides Taxpayer raw materials that are used in the manufacturing process. These raw materials include the items constituting the ingredients of various cosmetic products, such as cocoa butter or mineral oil.

The manufacturing process requires the application of heat, chemicals or a homogenization process to the raw materials to transform them into skin lotions and moisturizers. The process differs for each final product. For example, Taxpayer produces some products by using an agitation process to mix certain combinations of the raw materials. These mixtures are heated and then combined with other heated chemical compounds, and subsequently homogenized, cooled and filtered.

Taxpayer manufactures other products by adding an oil and water compound during the process.

Taxpayer packages the final product which is sold by Parent to the ultimate consumer. Until the product is sold, Taxpayer provides storage. Parent pays Taxpayer for these activities.

To produce the goods, Taxpayer purchases certain raw materials, such as alcohol which becomes a part of the final product, packaging materials, and supplies, such as nitrogen which is consumed in the manufacturing process. Taxpayer also purchases equipment that is directly used in the manufacturing operation and repair services and parts when needed.

DISCUSSION:

The Tax Reform Code of 1971 ("the Code"), as amended, excludes from the definition of 'sale at retail' and 'use' the purchase or use of services or machinery, equipment, and supplies to be used or consumed by the purchaser directly in "the manufacture of tangible personal property." 72 P.S. §§ 7201(k),(o). The Code defines 'manufacture' as follows:

The performance of manufacturing, fabricating, compounding, processing or other operations, engaged in as a business, which place tangible personal property in a form, composition or character different from that in which it is acquired whether for sale or use by the manufacturer, . . . . 72 P.S. § 7201(c).

The term 'use' is also defined in the Code and includes the exercise of "any right or power incidental to the ownership, custody or possession of tangible personal property and shall include, but not be limited to transportation, storage or consumption." 72 P.S. § 7201(o)(1).

Taxpayer's activities consist of producing skin lotions and moisturizers by mixing together raw materials obtained from Parent. The mixture is then heated, agitated, or homogenized to create the final product. Taxpayer packages the product for the ultimate consumer and stores it until it is distributed. Parent pays Taxpayer for these activities.

Taxpayer's combining of the raw materials with the necessary heating, agitation, and homogenization creates a product that is different in form and composition from the raw materials or supplies Taxpayer purchases directly, i.e. alcohol and nitrogen, or obtains from Parent, i.e. cocoa butter, mineral oil, and other lotion components.

Taxpayer produces a product using its equipment to perform the manufacturing operation and then packages it for the ultimate consumer. After packaging, Taxpayer stores the product until Parent sells the product and distribution is made to the ultimate consumer.

Taxpayer receives consideration for its activities relating to the production of the goods. Taxpayer has made a use of the final product which will be resold because the storage of property in the Commonwealth is by definition a 'use.' Use as previously noted includes the exercise of any right or power incidental to the ownership, custody or possession of tangible personal property and shall include, but not be limited to transportation, storage or consumption. 72 P.S. § 7201(o)(1).

Taxpayer owns the equipment it uses in its manufacturing operation and is paid by Parent for its use of the equipment in the production of a product that it packages for the ultimate consumer. Taxpayer's activities result in the production of a product different in form and composition from the raw materials used. In addition to the production of the final product, Taxpayer packages and stores the product until it is sold by Parent. These activities are sufficient to permit the Taxpayer to qualify as a manufacturer.