

SALES and USE TAX BULLETIN 2010-01

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Electricity Manufacturing Exemption

The Department of Revenue issues this Bulletin to clarify when a person's activities rise to the level of being engaged in the business of manufacturing electricity, and thus is eligible to claim the manufacturing exemption from sales tax on the purchase of equipment, machinery, parts and foundations therefore and supplies used directly in the manufacturing, and how to claim such exemption.

(a) *General.*

(1) *Manufacturing* - The performance, as a business, of an integrated series of operations which places 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.

(2) *Exemption* - The purchase or use of tangible personal property or services performed thereon by a person engaged in the business of manufacturing electricity is exempt from sales tax if the property is predominantly used directly by that person in manufacturing.

(b) *What qualifies:* In order to qualify as being engaged in the business of manufacturing electricity, the following must apply:

(1) The electricity production is conducted in an independent, separate and distinct location, utilizing independent, separate and distinct machinery and supplies devoted predominantly to electricity producing activities.

(2) The electricity production is the responsibility of employees assigned to the job of electricity production and whose duties are predominately related to electricity production.

(3) Separate accounting or interdepartmental billing is provided to reflect the cost of operating electricity production activities and to charge these costs against any other business activities conducted by the electricity producer.

(4) The electricity production activities are separate and distinct from any other business activities of the electricity producer.

(5) Electricity production activities are of sufficient size, scope and character that they could be conducted on a commercially viable basis separate and distinct from any other business activities of the electricity producer.

(c) *What does not qualify:*

(1) Back-up or emergency generators.

(2) Residential electric systems such as solar panels/photovoltaic systems and windmills, regardless if some of the electricity is sold.

(d) *How to claim the exemption.*

(1) Any person claiming an exemption from sales tax on the purchase of equipment, machinery, parts and foundations therefore, and supplies claimed to be directly used in electricity manufacturing shall execute and tender a properly completed Pennsylvania exemption certificate (Form REV-1220) to the Pennsylvania licensed vendor.

(2) *Construction Contractors*

(i) Any construction contractor claiming an exemption from sales tax on the purchase of equipment, machinery, parts and foundations therefore, and supplies to be installed pursuant to a construction contract with a person claiming direct use in electricity manufacturing shall execute and tender a properly completed Pennsylvania exemption certificate (Form REV-1220) to the Pennsylvania licensed vendor.

(ii) The construction contractor claiming this exemption from sales tax also shall obtain a properly completed Pennsylvania exemption certificate (Form REV-1220) from the person with whom he enters into such construction contract.

(3) Each certificate shall be annotated at the block marked "Other" with the following wording "Property or services to which this certificate applies qualify as equipment, machinery, parts and foundations therefore, and supplies that will be transferred to and used by [Insert name of electricity manufacturer] for use directly in manufacturing electricity."