



FYI Sales 69

Enterprise Zone Exemption for Machinery and Machine Tools Used in Mining

GENERAL INFORMATION

Purchases of machinery or machine tools and parts thereof are exempt from state sales and use tax when the machinery will be used in manufacturing. [§39-26-709(1)(a)(II) C.R.S.] For businesses in an enterprise zone, the statewide sales and use tax manufacturing exemption is expanded to include the purchase of machinery and machine tools used in certain mining or oil and gas operations. The machine, tool, or part must also meet all other qualifications as required for the statewide manufacturing exemption. As such, the information in this FYI is intended to supplement the information provided in FYI Sales 10, Manufacturing Equipment Exemption.

EXPANDED EXEMPTION

For purposes of this enterprise zone exemption, the definition of manufacturing has been expanded to include "mining" as follows: "refining, blasting, exploring, mining and mined land reclamation, quarrying for, processing and beneficiation, or otherwise extracting from the earth or from waste or stockpiles or from pits or banks any natural resource." [§39-30-106(1)(b)C.R.S.] To qualify for this exemption, the machine, tool, or part must be used directly in the mining process. Using a machine in the mine is not sufficient evidence by itself of exemption.

Oil and Gas Operations

The mining exemption stated under the "General Information" section above broadens the exemption for oil and gas operations only within enterprise zones to include machinery, machine tools and parts that are directly and exclusively used in exploring and extraction. The associated pipes, holding tanks, gas separators, structures, electrical work, and other nonmachines are not exempt.

Refining or processing, which is essentially a purification process, may cause a physical or chemical change but does not meet the definition of manufacturing outside an enterprise zone. Within an enterprise zone under the expanded definition of manufacturing, machinery used in refining and processing a natural resource may be exempt if all the other requirements of the exemption statute are met.

Refining that creates a substantial change in the form, composition or character of crude oil into a new product (has a distinctive name, character and use from crude oil) is exempt both within and outside an enterprise zone if all the other requirements of the exemption are met.

Examples of Exempt and Nonexempt Machines

In general, any machine that facilitates removing the mined article from the ground is exempt.

- Trucks used to carry ore from the mine site to a crusher would not be exempt. Trucks used to carry ore to a storage area awaiting shipping would not be exempt. Trucks designed and predominantly used for hauling explosives would be exempt.
- Repair parts for an exempt truck would be exempt only if the parts meet all other requirements.
- Safety equipment required by state, federal or other government agencies or union contracts is exempt only if it meets all other requirements. Examples of nonexempt safety equipment would include ventilation units, machines to move miners in and out of the mine, gas detectors and fire suppression units.
- Tools used in the repair of machines are taxable. Machines used in maintenance are taxable. Repair and maintenance tools and machinery are not directly a part of the mining process.
- Machines to install shoring are exempt, but the shoring itself is taxable. Roof bolts are taxable, but the roof bolter is exempt. Bolts and shoring are not integral parts of the mining machinery itself.
- Monitoring devices directly controlling mining machines are exempt. Monitoring devices that merely give an alarm are not.
- Downhole pumps, sucker rods, etc., used to extract oil or gas would be exempt. The pipeline used to carry the oil or gas would be taxable, as would the compressors used to move gas through a pipeline.

LOCAL TAXES

Cities, counties and special districts may or may not exempt manufacturing equipment from local sales taxes. Refer to publication Colorado Sales/Use Tax Rates (DR 1002) for a list of localities that exempt this equipment from local tax. Special districts that impose sales tax on manufacturing equipment cannot impose use tax on the equipment.

More information is available through the Colorado Office of Economic Development & International Trade (OEDIT) located at 1625 Broadway, Room 2700, Denver, CO 80202; Telephone is (303) 892-3840. You may also visit the OEDIT Web site at www.advancecolorado.com/enterprisezone for more information on Colorado Enterprise Zones.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.