

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING #98-07**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

Industrial machinery exemption as applied to the purchase of pallet caps.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the department by the taxpayer. The rulings herein are binding upon the Department and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time.

Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[THE TAXPAYER] is a [PRODUCT] manufacturer located in Tennessee. Pallet caps are molded ABS styrene and are used to store the Taxpayer's [PRODUCTS] on a pallet for handling and temporary storage. The [PRODUCTS] are nested mechanically within the caps to ensure protection from environmental factors as well as damage from movement during transportation.

The transportation process involves placing the appropriate number of [PRODUCTS] onto a pallet, followed by placing a pallet cap on top. This process is repeated until the appropriate number of layers, [NUMBER] to [NUMBER] layers, is obtained. The pallet of [PRODUCTS] is then transported via truck to the Taxpayer's separate packaging facility for further processing. The packaging facility is a separate building with a separate address and location. There, the [PRODUCTS] are removed from the pallet for [PROCESS] testing. After [PROCESS] testing, the [PRODUCTS] are returned to the pallets for internal packaging or forwarded, via truck, to a contract packaging facility. Most of the [PRODUCTS] are packaged at the packaging facility.

The [PRODUCTS] remain within the confines of the pallet caps for a period of time which ranges from [NUMBER] days, for internal packaging, or [NUMBER] days or more for contract packaging. After the products are removed from the pallet caps, the pallet caps are returned to the assembly plant and used again.

ISSUE

Whether the purchase of the pallet caps is exempt from sales tax as industrial machinery pursuant to Tenn. Code Ann. § 67-6-102(12).

RULING

The purchase of the pallet caps is not exempt from sales tax.

ANALYSIS

Industrial machinery, together with the installation and fabrication labor associated therewith, is exempt from Tennessee sales and use taxes when purchased by a manufacturer. The definition of industrial machinery is contained in Tenn. Code Ann. § 67-6-102(12):

(A) Machinery, apparatus, and equipment with all associated parts, appurtenances, and accessories, including . . . repair parts and any necessary parts or taxable installation labor therefor, which is necessary to and primarily for the fabrication or processing of tangible personal property for resale, and consumption off the premises . . . where the use of such machinery, equipment or facilities is by one who engages in such fabrication or processing as one's principal business . . . either within or without this state . . .

(D) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property for resale . . . includes, but is not limited to: . . .(ii) Equipment used in transporting raw materials from storage to the manufacturing process, and transporting finished goods from the end of the manufacturing process to storage.

(E) Such industrial machinery necessary to and primarily for the fabrication or processing of tangible personal property . . . does not include machinery, apparatus, or equipment used prior to or after equipment exempted by subdivision (12)(D)(ii)

The caps are used to contain the products during transport from the manufacturing location to the Taxpayer's packaging location. The pallet caps are primarily used for storage and containment of the product: to stack and store the pallets of [PRODUCTS] safely for transportation and temporary storage that can last over several weeks. The pallet caps are primarily storage devices and do not fall within the commonly understood definition of industrial machinery.

Accordingly, the pallet caps do not qualify as industrial machinery and are not exempt from tax.

Caroline R. Krivacka, Tax Counsel

APPROVED: Ruth E. Johnson, Commissioner

DATE: 3-2-98