

SECTION 57 - MANUFACTURING AND INDUSTRIAL PROCESSING

57-1 CLASSIFICATION OF ACTIVITIES OF MANUFACTURING AND INDUSTRIAL PROCESSING

- A. For the purposes of interpreting and administering the privilege tax, the following classifications are based on the three principal activities of manufacturers and industrial processors and shall be followed by manufacturers purchasing tangible personal property which is used or consumed in different phases of the operation of an industrial plant:
1. **“Production”** as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating or other operations are done on ingredient materials as an actual routine on a processing or assembly line turning out a finished product of manufacture for sale. It shall also include the movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line, the movement of goods in process along the processing line and the movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility. Purchases by a manufacturing industry or plant of machinery, or parts or accessories therefor for use in production, as defined above, are classified as mill machinery or mill machinery parts or accessories. The term **“production”** shall also mean the work of experimentation and research performed on the manufactured products. Purchases by a manufacturing industry or plant of **research and development** equipment and supplies for quality control or the improvement of its manufactured products or for the development of products which it will manufacture are classified as mill machinery or mill machinery parts or accessories. Items which are not classified as mill machinery or mill machinery parts or accessories when purchased by manufacturing industries and plants for use in their research and development areas include such items as desks, calculators, personal computers used for administrative purposes and chairs and are subject to the general rate of State tax and any applicable local sales or use tax. Production does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it include distribution as defined in A. 2. of this Bulletin. Sales to manufacturing industries and plants of machinery, parts and accessories to such machinery or other items of tangible personal property which are used in the movement of raw materials or ingredients into inventory or in distribution activities as defined or which are used for other similar purposes are subject to the general rate of State tax and any applicable local sales or use tax without any maximum tax.
 2. **“Distribution”** with reference to industrial and manufacturing plants shall mean any activity connected with the movement of manufactured products within storage warehouses, shipping rooms and other such finished products storage areas and the removal of such products therefrom for sale or shipment. Sales of distribution equipment to manufacturing industries and plants are subject to the general rate of State tax and any applicable local sales or use tax.
 3. **“Administration”** with reference to industrial and manufacturing plants shall mean and include the administrative work of offices, promotion of sales and collection of accounts. Sales of administrative equipment, such as office equipment of all kinds, stationery and related articles such as pens, pencils, rubber stamps, paper cutters, printed forms, books of accounts and records, file cabinets, small tools and implements such as scissors, staplers, desk trays and other miscellaneous articles generally sold exclusively for office use and furniture and fixtures are subject to the general rate of State tax and any applicable local sales or use tax.

- B. Any question regarding the application of the proper rate of tax, the classification of a purchaser for sales and use tax or privilege tax purposes, or the exempt status of certain transactions shall be submitted to the Department for determination.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264; Issued: January 1, 2007.

57-2 SALES BY MANUFACTURERS

- A. Sales of tangible personal property by manufacturers to registered merchants in this State for the purpose of resale are not subject to sales or use tax provided the transactions are supported by a properly executed **Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E**.
- B. Sales of tangible personal property by manufacturers to nonresident retail or wholesale merchants for the purpose of resale in another state are not subject to sales or use tax when the property is delivered to such purchasers in this State provided the nonresident retail or wholesale merchant is registered for sales and use tax purposes in a taxing jurisdiction outside this State and the transactions are supported by properly executed Certificates of Exemption.
- C. Sales of tangible personal property by manufacturers who deliver the property to purchasers outside this State or who deliver the property to a common carrier or to the mails for delivery to the purchaser at a point outside this State are not subject to the North Carolina sales or use tax. Such sales must be supported by the prescribed records.
- D. Sales of tangible personal property by manufacturers to nonregistered merchants in this State and sales to nonregistered nonresident merchants who accept delivery of the property in this State are subject to the sales or use tax.
- E. Manufacturers who only make sales to registered merchants for resale or sales which are otherwise exempt from the tax are not required to report such sales to the Department. However, manufacturers making taxable retail sales or purchases subject to the use tax must register with the Department and file sales and use tax reports reflecting such taxable sales or purchases and pay the applicable tax due thereon.
- F. A manufacturer becomes liable for tax on its sales of taxable tangible personal property when it sells directly to users and consumers, including employees. Such sales include:
1. sales of bottled drinks by a bottling plant to users and consumers, including employees;
 2. sales to employees or other persons of food products, meals and other prepared foods by an industrial plant or other business of any kind through a commissary, concession stand, cafeteria, lunch stand or other similar places; and
 3. sales of fuel, hosiery, furniture or any other kind of taxable tangible personal property to employees or any other users or consumers.
- G. A manufacturer's casual or occasional sale of its worn out, obsolete or surplus machinery, accessories and similar items is not subject to sales or use tax. A manufacturer's purchase of worn out, obsolete or surplus machinery, accessories and similar items from a person not engaged in the business of selling that type of property is not subject to the privilege tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-164.28;
105-187.50; 105-187.51; 105-187.51A; 105-187.51B; 105-187.52;
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57-3 EXEMPT SALES TO MANUFACTURERS

The following sales to manufacturers are exempt from the sales and use tax and the privilege tax:

1. products of forests and mines in their original or unmanufactured state when such sales are made by the producer in the capacity of producer.
2. cotton, tobacco, peanuts or other farm products sold to manufacturers for further manufacturing or processing.
3. products of a farm sold in their original state by the producer of the products if the producer is not primarily a retail merchant.
4. manufactured products produced and sold by manufacturers or producers to other manufacturers, producers, or registered wholesale or retail merchants, for the purpose of resale except as modified by G.S. 105-164.3(51). Provided, however, this exemption shall not extend to or include retail sales to users or consumers not for resale.
5. sales of products of waters in their original or unmanufactured state when such sales are made by the producer in the capacity of producer. Fish and seafood are likewise exempt when sold by the fisherman in that capacity.
6. sales of tangible personal property to a manufacturer which enters into or becomes an ingredient or component part of tangible personal property which is manufactured. Examples of such items are nails, bolts, screws or other pieces of hardware, thread, cloth, paint, varnishes, bleaches, oils and other finishing materials, including chemicals which actually enter into manufactured products at some step between the initial and final steps of production, labels attaching to manufactured products and name and trademark fixtures. The exemption for sales to a manufacturer of tangible personal property that enters into or becomes an ingredient or component part of tangible personal property that is manufactured does not include electricity.
7. sales of wrapping paper, labels, wrapping twine, paper, cloth, plastic bags, cartons, packages and containers, cores, cones or spools, wooden boxes, baskets, coops and barrels, paper cups, napkins, drinking straws and like articles sold to manufacturers, producers and retailers, when such materials are used for packaging, shipment or delivery of tangible personal property which is sold either at wholesale or retail and when such articles constitute a part of the sale of such tangible personal property and are delivered with it to the customer.
8. sales of containers that are used as packaging by the owner of the container or another person to enclose tangible personal property for delivery to a purchaser of the property and are required to be returned to its owner for reuse.

Note: For additional information on packaging materials, refer to Sales and Use Tax Technical Bulletin 58-6.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
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57-4 USE TAX LIABILITY OF MANUFACTURERS

Manufacturers making purchases of tangible personal property subject to the State and applicable local rates of sales or use tax for storage, use or consumption in this State from suppliers outside this State who do not collect North Carolina sales or use tax thereon are liable for payment of the use tax at the applicable rate directly to the Department of Revenue unless such purchases are specifically exempt from tax. Freight, delivery or other transportation charges in any way connected with such taxable purchases are subject to the applicable use tax. Also, manufacturers who have a deficiency in tax paid on electricity due to the imposition of an incorrect tax rate by the retailer are liable for payment of the tax deficiency directly to the Department of Revenue. Such manufacturers must register with the Department for sales and/or use tax purposes and remit such tax directly to the Department. Vendors engaged in business in this State are required to charge the applicable rate of tax on their sales to manufacturers except for tangible personal property that is specifically exempt from the sales and use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-187.50;
105-187.51; 105-187.51A; 105-187.51B; 105-187.52; 105-264;
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