

COMMONWEALTH of VIRGINIA

Department of Taxation
Richmond, Virginia 23282

MEMORANDUM

TO: Sandy Adams, District Administrator
Richmond District Office

DATE: May 22, 1989

RE: Sales and Use Tax: Storage Tanks

This will reply to Jim Kickler's memorandum dated July 29, 1988, in which he wished to determine whether raw material storage tanks qualify for the manufacturing exemption set forth in Virginia Code § 58.1-608(1). Specifically requested was clarification of the Commissioner's Determination Letter dated December 10, 1987, copy attached, whether "all raw material storage tanks [fall] in the same category" as exempt machinery under the above code section.

§ 58.1-608(1)(c) of the Code of Virginia exempts from the sales and use tax "machinery...used directly in processing, manufacturing, refining, mining or conversion of products for sale or resale." § 630-10-63(A)(7) of the Virginia Retail Sales and Use Tax Regulations provides that "for a business to obtain the [manufacturing] exemption, it must first be manufacturing or processing products for sale or resale...and such production must be industrial in nature."

Furthermore, § 630-10-63(B)(2) of the Virginia Retail Sales and Use Tax Regulations states that "[t]he term used directly refers to those activities that are an integral part of the production of a product, including all steps of an integrated manufacturing process...." This subsection defines the integrated manufacturing process to include "the production line of a plant, factory...starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where products are finished or completed for sale and conveyed to a warehouse at the same plant site." (Emphasis added).

The cement storage bins in the attached determination were exempt since they were located at the plant site and stored raw materials (cement powder) used directly in the manufacturing process. Therefore, raw material storage tanks located at the manufacturing plant site qualify for the exemption.

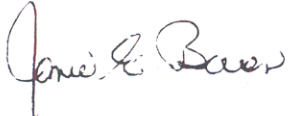
However, raw material storage tanks are to be differentiated from tanks used to store production supplies or fuel. Supply and fuel storage tanks are generally

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taxable, however, § 630-10-63(C)(2) of the Virginia Retail Sales and Use Tax Regulations states that "tanks and other devices which constitute machinery are exempt...." (Emphasis added). See Webster Brick v. Department of Taxation, 219 Va. 81 (1978), copy attached.



Jarlie E. Bowen, Director
Tax Policy Division

Approved:


W. H. Forst, Tax Commissioner

cc: Technical Services Section
Field Services Division

Attachments (2)