

Florida - Certain machinery and equipment exempt from sales and use tax

May 23, 2013

In brief

On May 17, 2013, Florida Governor Rick Scott signed [H.B. 7007](#), which provides a temporary sales and use tax exemption for purchases of certain machinery and equipment from April 30, 2014 to April 30, 2017. Subject to legal challenge, this temporary exemption could provide significant benefits to Florida manufacturers.

In detail

Effective April 30, 2014, H.B. 7007 provides a sales and use tax exemption for industrial machinery and equipment purchased by an 'eligible manufacturing business' that is used at a fixed location within Florida for the manufacture, processing, compounding, or production of items of tangible personal property for sale.

Eligible manufacturing business

An eligible manufacturing business means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under the 2007 North American Industry Classification System codes 31, 32, and 33 (manufacturing).

Industrial machinery and equipment

Industrial machinery and equipment means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased prior to the date the machinery and equipment are placed in service.

Excluded from the definition of industrial machinery and equipment are:

- buildings and their structural components, unless a building or structural component is so closely

related to industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced

- heating and air conditioning systems, unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities
- parts and accessories related to the machinery and equipment purchased after

the date the machinery and equipment is placed in service.

Exemption certificate

If at the time of purchase the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to an exemption, the seller is relieved of the responsibility for collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

The takeaway

Florida Governor Rick Scott [called for a manufacturing equipment exemption](#) as part of his plan to create

more manufacturing jobs in Florida. Acknowledging that Florida manufacturers were subject to tax on machinery and equipment in Florida that was not imposed in other states, the governor applauded the legislature's passing of the temporary manufacturing exemption as a "[victory for job creators](#)."

However, this victory may be short-lived. H.B. 7007 may be subject to a potential legal challenge as violating the Florida Constitution if it is deemed to impact local government revenue. The Florida Constitution requires a two-thirds majority for legislation that affects revenues of local governments. H.B. 7007 passed the House by a 68-48 vote, which is less than a two-thirds majority.

The machinery and equipment exemption in H.B. 7007 is in addition to Florida's current exemption for industrial machinery and equipment purchased for use in new or expanding in-state manufacturing facilities. It is unclear how the Florida Department of Revenue will reconcile these two exemptions for property that qualifies for both. While the new and expanding business exemption has more requirements than the newly enacted legislation, it may still be a viable alternative if H.B. 7007 fails following a legal challenge.

Let's talk

If you have any questions regarding H.B. 7007, please contact:

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