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## Opinion of the Tax Commissioner

Date Issued: April 25, 2001

Opinion No: 01-0005

Tax: Personal Property

XXXX  
XXXX  
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Subject: Foreign Trade Zone

This request for an Opinion of the Tax Commissioner was received from XXXX Company (hereinafter "Taxpayer") on February 14, 2001. It concerns the Ohio personal property tax treatment pursuant to R.C. 5709.44 of inventory held in a foreign trade zone.

### TAXPAYER'S STATEMENT OF FACTS

Taxpayer's request in pertinent part reads as follows:

The XXXX Division of XXXX is seeking to take part in a foreign-trade zone expansion application that will be submitted to the U.S. Foreign-Trade Zones Board by the XXXX Chamber of Commerce as Grantee of Foreign-Trade Zone XXXX<sup>1</sup>. The proposed expansion application is part of a larger effort to expand the XXXX foreign-trade zone into the community to assist local business and to attract new business to the Industrial Park in Willard, Ohio.

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<sup>1</sup> Foreign Trade Zone XXXX received its grant of authority from the U.S. Foreign-Trade Zones Board on XXXX.

The taxpayer will be locating its inventory within this foreign-trade zone area expansion after the expansion is approved by the federal Foreign-Trade Zones Board but prior to that portion of the zone being activated.

### QUESTION FOR WHICH AN OPINION IS REQUESTED

Taxpayer requests an opinion regarding the taxability of its personal property inventory located within Foreign-Trade Zone XXXX; specifically, whether the foreign trade zone where the inventory is located must be activated in accordance with U.S. Customs requirements in order to receive the personal property tax exemption for its inventory afforded by R.C. 5709.44.

## CONCLUSION

Based upon the facts submitted, it is the opinion of the Tax Commissioner that if the federal Foreign-Trade Zones Board approves the subject proposed expansion of the Zone as a general expansion of or addition to the Zone and not as a special purpose subzone as defined in 19 U.S.C. §81a *et seq.* (1999) and 15 C.F.R. §400.21 (2001), it will qualify as a “foreign trade zone” within the meaning of R.C. 5709.44(A)(2); and furthermore, that R.C. 5709.44 does not mandate that a foreign trade zone be activated in order to qualify inventory exempt from the personal property tax. Therefore, any inventory of the taxpayer within the approved Foreign Trade Zone XXXX is exempt from the Ohio personal property tax.

The opinion applies to Taxpayer and its property. It may not be transferred or assigned.

In addition, the consequences resulting from this opinion may be subject to change for any reason stated in R.C. 5703.59(C). It is the duty of Taxpayer to be aware of such changes. R.C. 5703.53(E).

Thomas M. Zaino  
Tax Commissioner