
Opinion of the Tax Commissioner

Date Issued: September 24, 1993

Opinion No: 93-0014

Tax: Sales

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Subject: Laundering Rental Articles

This request for an opinion of the Tax Commissioner was received on August 5, 1993. It concerns the applicability of sales and use tax to purchases of certain equipment and supplies used in the Taxpayer's business.

The Taxpayer describes its business as the leasing of uniforms and uniform-related items to commercial and industrial customers. The Taxpayer recognizes that leasing of tangible personal property comes within the definition of "sale" found in R.C. 5739.01(B)(1), and accordingly the Taxpayer collects sales tax from its Ohio customers. The questions raised in the Taxpayer's request for an opinion concern the tax status of various items it purchases for its own use. The Taxpayer has classified these items into four groups:

1. the soaps, detergents, bleaches, spot removers and other chemicals and solvents which Taxpayer uses to clean the textiles it owns and rents to others;
2. the washing machines, extractors, dryers, presses, conveyors and other machinery and equipment which Taxpayer uses to sort, clean, dry, fold and bundle the textiles it owns and rents to others;
3. the steam boilers, steam pipes and tunnels, water reuse and boiler stack economizers, catch basins, plumbing fixtures, electrical wiring and other items of tangible personal property, and the electricity, gas, water, oil and other sources of energy, which Taxpayer uses primarily to operate the equipment listed in paragraph 2; and
4. the sewing machines, hemming machines, embroidery machines and heat seal machines, and the patches, thread, epoxy and identification tape, which Taxpayer uses to manufacture, repair and maintain the textiles it owns and rents to others.

Specifically, the Taxpayer inquires whether the preparation of its uniforms and other items for sale by lease is deemed to be a manufacturing operation to produce tangible personal property for sale, thus qualifying the listed items for exemption pursuant to R.C. 5739.01(E)(9).

In Van Dyne Crotty Co. v. Limbach (1990), 53 Ohio St. 3d 3, the Court found that two companies engaged in the business of renting towels, mats, mops, cloths, and uniforms to industrial and commercial customers were manufacturing or processing when they cleaned their rental articles. During the applicable period R.C. 5739.01(E)(2) excepted from the definition of sales "items used or consumed directly in the production of tangible personal property for sale

by manufacturing or processing." H.B. 531, effective July 1, 1990, made a number of changes in the statutory provisions governing manufacturing. The law under which Van Dyne Crotty was decided defined "manufacturing" or "processing" as "the transformation or conversion of material or things into a different state or form from that in which they originally existed." At present, R.C. 5739.01(S) defines "manufacturing operation" as "a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed...."

Under both the old and the new statutory language, the essence of "manufacturing" is the changing of materials into a different state or form. The Taxpayer is engaged in more than the mere removal of surface soil from its rental clothing. It physically changes the condition of the fibers by removing contaminants imbedded in them as well as sanitizing the clothing. This would constitute manufacturing under the terms of Van Dyne Crotty.

Therefore, it is the opinion of the Tax Commissioner that the Taxpayer is engaged in manufacturing as statutorily defined, and may claim exemption under R.C. 5739.01(E)(9) for items it uses primarily in a manufacturing operation to produce tangible personal property for sale. As to the types of items listed in paragraphs 1-4 above, the Tax Commissioner finds as follows:

1. All the items listed in paragraph 1 qualify for exemption.

2. The washing machines, extractors, dryers, and presses clearly qualify for exemption. "Conveyors and other machinery and equipment" is not sufficiently specific language on which to make a determination. The Taxpayer should refer to Adm. Code Rule 5703-9-21 for guidance. "Sort," "fold," and "bundle" are not words that describe the manufacturing operation. Such activities may be part of a packaging operation which occurs after manufacturing or processing is complete. However, the packaging exemption in R.C. 5739.02(B)(15) may be available to the Taxpayer by virtue of being a manufacturer and a retail vendor.

3. Most of the items listed in paragraph 3 qualify for exemption. However, the fungibles are subject to apportionment, and only that portion which can be shown to have been used in manufacturing or processing will be exempted.

4. All the items listed in paragraph 4 qualify for exemption.

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

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

Roger W. Tracy
Tax Commissioner