

This memorandum supersedes TSB-M-83(8)S, dated May 10, 1983, which should be destroyed.

Meat Processing Equipment

Meat processing equipment used in the meat department of supermarkets, butcher shops, and wholesale meat houses qualifies for exemption from sales and use tax under section 1115(a)(12) of the Tax Law, if it is used directly and predominantly in the production or processing of meat for sale. Equipment is used predominantly in production, if over 50% of its use is directly in the production phase of a process.

Section 1115(c) of the Tax Law provides for a sales tax exemption for electricity used directly and exclusively in the production of tangible personal property by manufacturing or processing. Therefore, the portion of electricity used directly and exclusively to operate meat processing equipment in an exempt manufacturing or processing phase will qualify for exemption, even when the equipment itself does not qualify for exemption.

In delicatessen operations, meat processing equipment qualifies for the production exemption if used directly and predominantly to slice meat sold in bulk or by weight; however, if used predominantly to slice meat to be used to make sandwiches for sale, the production exemption does not apply.

Sales of food or drink served in restaurants, taverns or other such establishments are not sales of food, food products or beverages exempt under section 1115(a)(1); nor are they sales of tangible personal property subject to tax under section 1105(a) of Article 28 of the Tax Law. These sales are hybrid transactions subject to tax under a separate provision of the law, section 1105(d), which recognizes that they involve both the sale of tangible personal property and services. Machinery and equipment used in the preparation of such food or beverages in restaurants, taverns or other such establishments are not used for the purpose of manufacturing or processing and are therefore subject to sales and use tax.

(continued on page 2)

The following chart (which is not all inclusive) indicates the application of sales tax to purchases of meat processing equipment, supplies, and services to such equipment and supplies, by supermarkets, butcher shops and wholesale meat houses when used directly and predominantly in production or processing of meat for sale.

	<u>Statewide Sales Tax</u>	<u>Local Sales Tax (Outside NYC)</u>	<u>New York City Tax</u>
Power meat saws, cubers, grinders, slicers	E	E	T
Sausage stuffers, hamburger patty machines	E	E	T
Tenderizers (Power)	E	E	T
Scales (used to weigh meat for labeling)	E	E	T
Scales (used to weigh incoming meat)	T	T	T
Hotwater heaters	T	T	T
Sinks	T	T	T
Wrapping system	E	E	T
Wrapping supplies	E	E	E
Platters (non-disposable)	T	T	T
Preparation tables in the processing area	E	E	T
Conveyors (used to move meat along production line)	E	E	T
Conveyors (not used in production line)	T	T	T
Tramrail (used for receiving meat for weighing, inspecting, measuring or testing)	T	T	T
Tramrail (used for receiving meat to be placed directly into storage)	E	E	T
Carts (used to move meat along production line)	E	E	T
Carts (not used in production line)	T	T	T
Stock trucks	T	T	T
Tubs (used to hold meat during processing)	E	E	T
Coolers ¹	E	E	T
Freezers ¹	E	E	T
Machine parts (useful life of more than a year) ²	E	E	T
Hand meat saws, knives and other hand tools ³	E	E	T
Machine parts (useful life of a year or less) ^{2,3}	E	E	T
Supplies ^{2,3}	E	E	T
Installing, maintaining or servicing machinery or equipment used directly and predominantly in production ³	E	T	T

¹ Before September 1, 1974, the exemption applied if the equipment was used exclusively to store meat prior to processing before the actual processing was complete. If also used in storing meat ready for sale, exemption was lost.

² Used in conjunction with exempt machinery.

³ Prior to September 1, 1980 subject to 4% statewide tax
September 1, 1980 to February 28, 1981 subject to 2% statewide tax
March 1, 1981 and thereafter exempt from statewide tax