

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Sales Tax
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**Expanded New York City
Production Exemption**

Effective September 1, 1996, section 1105-B of the Tax Law was amended to provide for an exemption from the 4% local sales and use tax imposed in New York City on purchases of the following parts, tools, supplies and services that are delivered in New York City:

- ▶ parts with a useful life of one year or less, tools or supplies for use or consumption directly and predominantly in the production process;
- ▶ parts with a useful life of one year or less, tools or supplies for use directly and predominantly in or -on exempt--telephone -central office equipment or station apparatus, or comparable telegraph equipment; and
- ▶ the services of installing, repairing, maintaining or servicing exempt machinery, equipment, apparatus, parts, tools and supplies.

This expanded exemption applies to any qualifying purchase in which delivery or transfer of possession of the parts, tools, supplies or services is made on or after September 1, 1996. This is so even if the purchase is made under a contract that was entered into before September 1, 1996.

Thus, on and after September 1, 1996, the New York City production exemption will apply to:

- ▶ production machinery and equipment (which includes parts with a useful life of more than one year);
- ▶ qualifying telephone central office equipment or station apparatus, or comparable telegraph equipment (including parts with a useful life of more than one year);
- ▶ the parts, tools or supplies used directly and predominantly in or on such qualifying machinery, equipment or apparatus; and
- ▶ the services of installing, repairing, maintaining or servicing the exempt machinery, equipment, apparatus, parts, tools or supplies.

Purchases of these items and services will be exempt -from the combined sales or use tax rate of 8 1/4 (4 1/4% New York State, 4% New York City) when delivered in New York City on or after September 1, 1996.

Note: The exemption described in this memorandum does not apply to the services that are subject to tax under section 1105(c)(2) of the Tax Law. These services include producing, fabricating, processing, printing and imprinting performed on tangible personal property furnished by the customer.

To claim the exemption, the purchaser should give the seller of the property or services a properly completed Form ST- 12 1, *Exempt Use Certificate*. Vendors may accept an *Exempt Use Certificate* that has a print date prior to August 1996 for qualifying sales of parts, tools, supplies or services made in New York City on and after September 1, 1996. The Tax Department will accept the old version of the certificate for purposes of the expanded exemption even though the

old certificate does not reflect the fact that these purchases are not taxable in New York City on or after September 1, 1996. If a vendor has a blanket certificate on file from a customer in New York City and that certificate has a print date that is prior to August 1996, the vendor is not required to ask the customer to complete a new certificate for sales made on or after September 1, 1996.

Sales of parts, tools, supplies and services that are exempt from tax in New York City as of September 1, 1996 should not be reported on Schedule U of the Sales and Use Tax Return for taxable periods beginning on or after that date. However, these sales must be included in the gross sales amount that is reported on Part 1, Box A of the return.

Definitions of Terms

Directly. Machinery, equipment, parts, tools or supplies are used directly in production when, during the production phase of a process, they:

- (i) act upon or effect a change in material to form the product to be sold; or
- (ii) have an active causal relationship in the production of the product to be sold; or

- (iii) are used in the handling, storage, or conveyance of materials or the product to be sold; or

- (iv) are used to place the product to be sold in the package in which it will enter the stream of commerce.

Predominantly. Machinery, equipment, parts, tools or supplies are used predominantly in the production process if over 50% of its use is directly in the production phase of a process.

The ***production process*** is the process by which tangible personal property, gas, electricity, refrigeration or steam is produced for sale by manufacturing, processing, generating, assembling, refining, mining or extracting.

The term ***part*** means a replacement for any portion of a piece of machinery or equipment, and any device actually attached to the machinery or equipment and used in connection with the performance of its function. (Note: To qualify as a part, the item in question cannot accomplish the work for which it was designed independent of the machine for which it is intended to be a component.)

The term ***tool*** means- a manually operated implement for performing a task, such as a tool used by carpenters and machinists. The term tool does not include parts, attachments, or devices that are affixed to machinery or equipment.

The term ***supply*** means an item of tangible personal property that is used to maintain exempt production machinery or equipment, or an expendable item of tangible personal property that is used or consumed in the production process. (Note: A supply item that becomes a detectable element of the finished product for sale is treated as a component and may be purchased for resale.)