

Frank M. O'Connell
State Revenue Commissioner



Chester Cook
Deputy State Revenue Commissioner

Georgia Department of Revenue
2595 Century Pkwy NE | Atlanta, Georgia 30345

NOTICE SUT-2025-002

RE: Proposal to amend Rules 560-12-2-.03 Agriculture Exemptions, 560-12-2-.20 Competitive Projects of Regional Significance, 560-12-2-.62 Manufacturing Machinery and Equipment, Industrial Materials, and Packaging Supplies, and 560-12-2-.64 Energy Necessary and Integral to Manufacturing; and proposal to repeal Rule 560-12-2-.109 Film Producer or Film Production Company.

TO ALL INTERESTED PERSONS AND PARTIES:

In compliance with O.C.G.A. § 50-13-4, the Georgia Department of Revenue gives notice that it proposes to amend Rules 560-12-2-.03 Agriculture Exemptions, 560-12-2-.20 Competitive Projects of Regional Significance, 560-12-2-.62 Manufacturing Machinery and Equipment, Industrial Materials, and Packaging Supplies, and 560-12-2-.64 Energy Necessary and Integral to Manufacturing and proposes to repeal Rule 560-12-2-.109 Film Producer or Film Production Company.

Attached to this notice are exact copies and synopses of the proposed rules. The proposed rules are being amended and repealed under the authority of O.C.G.A. §§ 48-2-12 and 48-8-3.2.

The Department of Revenue will consider the amendment of the above rules at a remote regulation hearing held at 10:00 a.m. on Monday, October 27, 2025, which can be accessed through the following link: <https://meet.goto.com/799622317> or via telephone at +1 (571) 317-3116 (local) or 1 866 899 4679 (toll-free) with the access code: 799-622-317. At the beginning of the hearing, attendees will be required to announce themselves and notify the Department if they plan to make oral comments during the hearing.

The Department must receive all comments regarding the above-referenced Rule from interested persons and parties no later than 10:00 a.m. on Monday, October 27, 2025. Electronic comments must be sent to regcomments@dor.ga.gov. **Please reference "Notice SUT-2025-002" on all comments.**

Dated: 09/15/2025

Frank M. O'Connell
State Revenue Commissioner

SYNOPSIS

GEORGIA DEPARTMENT OF REVENUE SALES AND USE TAX DIVISION

CHAPTER 560-12 SUBSTANTIVE RULES AND REGULATIONS

560-12-2-.03. Agriculture Exemptions.

The Georgia Department of Revenue proposes to amend Rule 560-12-2-.03. Agriculture Exemptions by making changes as indicated by underline and strikethrough on the attached copy of the Rule.

The purpose of the amendment is to add an exemption for diesel exhaust fluid in conformity with Senate Bill 340 as passed in the 2023-2024 Regular Session of the Georgia General Assembly. Accordingly, the Department proposes to add “and diesel exhaust fluid” to paragraph (1) and “and ‘agricultural uses’” to paragraph (2)(b), and add paragraph (7), which sets forth the exemption for diesel exhaust fluid.

In addition, the proposed amendment uncapitalizes “exemption” in paragraphs (3) and (8) because it is not a defined term.

The main features of the Rule are as follows:

Paragraph (1) Purpose.

Paragraph (2) Definitions.

Paragraph (3) Scope of exemptions: Activities that are not Agricultural Operations.

Paragraph (4) Exemption for Agricultural Production Inputs.

Paragraph (5) Exemption for Agricultural Machinery and Equipment.

Paragraph (6) Exemption for Energy Used in Agriculture.

Paragraph (7) Exemption for diesel exhaust fluid.

Paragraph (8) Certificates of exemption.

Paragraph (9) Non-transferability.

Paragraph (10) Manufacturers.

Paragraph (11) Contractors.

560-12-2-.20 Competitive Projects of Regional Significance

The Georgia Department of Revenue proposes to amend 560-12-2-.20 Competitive Projects of Regional Significance by making changes as indicated by underline and strikethrough on the attached copy of the rule.

The purpose of the amendment is to add content related to Energy used by Competitive Projects of Regional Significance that is currently in Rule 560-12-2-.64 Energy Necessary and Integral to Manufacturing. Accordingly, the Department proposes to strike the cross-reference to Rule 560-12-2-.64 from paragraph (1) and add the definition of Energy to paragraph (2). The Department further proposes to add paragraph (4)(c) to address the sales and use tax exemption for Energy used by Competitive Projects of Regional Significance.

In addition, the proposed amendment capitalizes “Competitive Project of Regional Significance” and “Project” because they are defined terms.

The main features of the Rule are as follows:

Paragraph (1) Purpose.

Paragraph (2) Definitions.

Paragraph (3) Construction exemption.

Paragraph (4) Property used exclusively for and in the construction of a Project.

Paragraph (5) Letter of authorization.

Paragraph (6) Expiration of letters of authorization.

Paragraph (7) Contractor purchases.

Paragraph (8) Contractors' use tax liability.

Rule 560-12-2-.62 Manufacturing Machinery and Equipment, Industrial Materials, and Packaging Supplies

The Georgia Department of Revenue proposes to amend Rule 560-12-2-.62 Manufacturing Machinery and Equipment, Industrial Materials, and Packaging Supplies by making changes as indicated by underline and strikethrough on the attached copy of the Rule.

The purpose of the amendment is to conform the Rule to House Bill 153 as passed in the 2025-2026 Regular Session of the Georgia General Assembly. Specifically, the Department proposes to amend paragraph (3)(d)2.(xi)(II) of Rule 560-12-2-.62 by extending to June 30, 2031 the sales and use tax exemption for maintenance and replacement parts for machinery or equipment, stationary or in transit, used to mix, agitate, and transport freshly mixed concrete in a plastic and unhardened state.

The main features of the Rule are as follows:

Paragraph (1) Purpose.

Paragraph (2) Definitions.

Paragraph (3) Machinery and Equipment Exemption.

Paragraph (4) Industrial Materials Exemption.

Paragraph (5) Exemption for Packaging Supplies.

Paragraph (6) Certificates of Exemption.

Paragraph (7) Agriculture Producers.

Rule 560-12-2-.64 Energy Necessary and Integral to Manufacturing

The Georgia Department of Revenue proposes to amend Rule 560-12-2-.64 Energy Necessary and Integral to Manufacturing by making changes as indicated by underline and strikethrough on the attached copy of the rule.

The purpose of the amendment is to move content related to Competitive Projects of Regional Significance to Rule 560-12-2-.20 Competitive Projects of Regional Significance and remove outdated content related to the phase-in period for the energy exemption for manufacturers. Accordingly, the Department proposes to remove paragraph (2)(a), which contains the definition of Competitive Project of Regional Significance, and paragraph (3)(e), which discusses the sales and use tax exemption for Energy necessary and integral to the manufacture of tangible personal property that is used by manufacturers qualifying as a Competitive Project of Regional Significance and the sales and use tax exemption for Energy used for and in the construction of a Competitive Project of Regional Significance. The Department further proposes to remove paragraph (3)(d), which sets forth the phase-in period for the exemption of Energy from certain sales and use taxes.

The proposed amended rule also capitalizes the term “Energy” because it is a defined term.

The main features of the Rule are as follows:

Paragraph (1) Purpose.

Paragraph (2) Definitions.

Paragraph (3) Exemption under O.C.G.A § 48-8-3.2.

Paragraph (4) Exemption from the Special District Transportation Sales and Use Tax and the Special District Mass Transportation Sales and Use Taxes.

Paragraph (5) Scope of the exemptions: Necessary and integral to the manufacture of tangible personal property.

Paragraph (6) Examples.

Paragraph (7) Certificates of exemption.

Paragraph (8) Transaction date.

560-12-2-.109 Film Producer or Film Production Company

The Georgia Department of Revenue proposes to repeal Rule 560-12-2-.109 Film Producer or Film Production Company because the Rule addresses the sales tax exemption (formerly codified

at O.C.G.A. § 48-8-3(73)) for the sale or lease of production equipment or production services for use by certified film producers or certified film production companies. The exemption was repealed effective July 1, 2012 by House Bill 386 as passed in the Georgia General Assembly 2011-2012 Regular Session.

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**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

TABLE OF CONTENTS

560-12-2-.03. Agriculture Exemptions.

560-12-2-.03. Agriculture Exemptions.

(1) Purpose. This Rule addresses the sales and use tax exemptions in O.C.G.A. § 48-8-3.3 for Agricultural Production Inputs, Agricultural Machinery and Equipment, ~~and Energy Used in Agriculture, and diesel exhaust fluid.~~

(2) Definitions. For purposes of this Rule only:

(a) “Agricultural Machinery and Equipment” means:

1. Machinery and Equipment used in Agricultural Operations, examples of which are provided in paragraph (5); or

2. Machinery or Equipment expressly included in O.C.G.A. § 48-8-3.3(a)(1)(B):

(i) Farm tractors and attachments to the tractors used in Agricultural Operations;

(ii) Any off-road vehicle used in Agricultural Operations;

(iii) Self-propelled fertilizer or chemical application Equipment sold to persons engaged primarily in producing Agricultural Products for sale and that are used exclusively in tilling, planting, cultivating, and harvesting Agricultural Products;

(iv) Devices and containers used in the transport and shipment of Agricultural Products;

(v) Aircraft exclusively used for spraying agricultural crops;

(vi) Pecan sprayers, pecan shakers, and other Equipment used in harvesting pecans sold to persons engaged in the growing, harvesting, and production of pecans;

(vii) Off-road Equipment and related attachments that are sold to or used by persons engaged primarily in the growing or harvesting of

- 36 timber and that are used exclusively in site preparation, planting,
37 cultivating, or harvesting timber;
- 38 (viii) Grain bins and attachments to grain bins that are used in
39 Agricultural Operations regardless of whether such grain bins or
40 attachments become incorporated into Real Property;
- 41 (ix) Trailers used to transport Agricultural Products;
- 42 (x) All-terrain vehicles and multi-passenger rough-terrain vehicles that
43 are used in Agricultural Operations; and
- 44 (xi) Any Repair, Replacement, or Component Parts installed on
45 Agricultural Machinery and Equipment.
- 46 (b) “Agricultural Operations” is used synonymously with the term “Agricultural
47 Purposes:” and “Agricultural Uses”.
- 48 1. Except as otherwise provided in this Rule, “Agricultural Operations”
49 means the following activities:
- 50 (i) Raising, growing, harvesting, or storing of crops, including but not
51 limited to soil preparation and crop production services, such as
52 plowing, fertilizing, seed bed preparation, planting, cultivating, and
53 crop protecting services;
- 54 (ii) Feeding, breeding, or managing Livestock, equine, or poultry;
- 55 (iii) Producing or storing feed for use in the production of Livestock,
56 including but not limited to cattle, calves, swine, hogs, goats,
57 sheep, equine, and rabbits, or for use in the production of poultry,
58 including but not limited to chickens, hens, ratites, and turkeys;
- 59 (iv) Producing plants, trees, fowl, equine, or other Animals;
- 60 (v) Producing aquacultural, horticultural, viticultural, silvicultural,
61 grass sod, dairy, Livestock, poultry, egg, and apiarian products;
- 62 (vi) Processing poultry;
- 63 (vii) Post-harvest services on crops with the intent of preparing them for
64 market or further processing, including but not limited to crop
65 cleaning, drying, shelling, fumigating, curing, sorting, grading,
66 packing, ginning, canning, pickling and cooling.
- 67 (viii) Slaughtering poultry and other Animals; and
- 68 (ix) Manufacturing dairy products.
- 69 2. “Agricultural Operations” excludes constructing, installing, altering,
70 repairing, dismantling, or demolishing Real Property structures or

71 Fixtures, including but not limited to grain bins, irrigation equipment, and
72 fencing.

73 (c) “**Agricultural Production Inputs**” means the following when used for Agricultural
74 Purposes:

75 1. Seed;

76 2. Seedlings;

77 3. Plants grown from seed, cuttings, or liners;

78 4. Fertilizers;

79 5. Insecticides;

80 6. Livestock and poultry feeds, drugs, and instruments used for the
81 administration of such drugs;

82 7. Fencing products and materials regardless of whether the fencing products
83 or materials become incorporated into Real Property;

84 8. Fungicides;

85 9. Rodenticides;

86 10. Herbicides;

87 11. Defoliant;

88 12. Soil fumigants;

89 13. Plant growth regulating chemicals;

90 14. Desiccants, including but not limited to shavings and sawdust from wood,
91 peanut hulls, fuller's earth, straw, and hay;

92 15. Feed for Animals, including but not limited to Livestock, fish, equine,
93 hogs, or poultry;

94 16. Sugar used as food for honeybees kept for the commercial production of
95 honey, beeswax, and honeybees;

96 17. Cattle, hogs, sheep, equine, poultry, or bees when sold for breeding
97 purposes;

98 18. Ice or other refrigerants, including but not limited to nitrogen, carbon
99 dioxide, ammonia, and propylene glycol used in the processing for market
100 or the chilling of Agricultural Products in storage facilities, rooms,
101 compartments, or delivery trucks;

102 19. Materials, containers, crates, boxes, labels, sacks, bags, or bottles used for
103 packaging Agricultural Products when the product is either sold in the
104 containers, sacks, bags, or bottles directly to the consumer or when such
105 use is incidental to the sale of the product for resale; and

- 106 20. Containers, plastic, canvas, and other fabrics used in the care and raising
107 of Agricultural Products or canvas used in covering feed bins, silos,
108 greenhouses, and other similar storage structures.
- 109 (d) “Agricultural Products” means items produced by Agricultural Operations.
- 110 (e) “Animals” is synonymous with “Livestock” and means living organisms that are
111 commonly regarded as farm animals, organisms that produce tangible personal
112 property for sale, or organisms that are processed, manufactured, or converted
113 into articles of tangible personal property for sale. The term does not include
114 living organisms that are commonly regarded as domestic pets or companion
115 animals.
- 116 (f) “Aquaculture” means an operation or integrated series of operations in the
117 growing of marine or freshwater organisms for sale. Aquaculture involves the
118 cultivating of aquatic populations under controlled conditions, as contrasted with
119 commercial fishing, where the conditions are not controlled.
- 120 (g) “Consumable Supplies” means tangible personal property, other than Machinery,
121 Equipment, Agricultural Production Inputs, and energy, that is readily disposable,
122 or is immediately consumed or expended.
- 123 (h) “Energy Used in Agriculture” means fuels used for Agricultural Purposes, other
124 than fuels subject to prepaid tax as defined in O.C.G.A. § 48-8-2.
- 125 (i) “Farm” means a parcel or tract of land or contiguous tracts or parcels of land, or,
126 for Aquaculture, an area of lake, river or sea, devoted primarily to growing or
127 raising, and actively maintaining, plants and Animals for Agricultural Purposes.
- 128 (j) “Fixtures” means tangible personal property that has been installed or attached to
129 land or to any building thereon and that is intended to remain permanently in its
130 place. A consideration for whether property is a Fixture is whether its removal
131 would cause significant damage to such property or to the Real Property to which
132 it is attached. Fixtures are classified as Real Property. Examples of Fixtures
133 include but are not limited to plumbing, lighting fixtures, slabs, and foundations.
- 134 (k) “Local Sales and Use Tax” means any sales or use tax that is levied and imposed
135 in an area consisting of less than the entire state, however authorized.
- 136 (l) “Machinery” is used synonymously with “Equipment” and means any device or
137 apparatus other than Real Property, Agricultural Production Inputs, energy, and
138 Consumable Supplies. The terms “Machinery” and “Equipment” include Repair,
139 Replacement, or Component Parts.
- 140 (m) “Motor Vehicle” means any self-propelled vehicle designed for operation or
141 required to be licensed for operation upon the public highways.
- 142 (n) “Qualified Agricultural Producer” means a person defined as such by the Georgia
143 Department of Agriculture.
- 144 (o) “Real Property” means land, buildings, or Fixtures attached to land or buildings.

- 145 (p) “Repair Part,” “Replacement Part,” or “Component Part” means a part for
146 Agricultural Machinery and Equipment. Repair, Replacement, or Component
147 Parts must be used to maintain, repair, restore, install, or upgrade such
148 Agricultural Machinery and Equipment. Examples of Repair, Replacement, or
149 Component Parts may include but are not limited to oils, greases, hydraulic fluids,
150 coolants, lubricants, and other interchangeable tooling.
- 151 (3) **Scope of Exemptions: Activities that are not Agricultural Operations.** Except as
152 otherwise provided in this Rule, inputs, machinery, equipment, and energy used in the
153 following activities do not qualify for exemption:
- 154 (a) Activities occurring after a finished product has been loaded in or on a truck or
155 other vehicle for transport for sale;
- 156 (b) Research and development activities;
- 157 (c) Landscaping activities for recreation or beautification, such as the maintenance of
158 lawns or golf courses;
- 159 (d) The operation of a sales facility;
- 160 (e) Subsistence farming, hobby farming, and activities that will generate less than
161 \$5,000.00 in sales annually; and
- 162 (f) Administrative activities, including but not limited to sales promotion, general
163 office work, credit and collection, purchasing, and clerical work.
- 164 (4) **Exemption for Agricultural Production Inputs.** Sales of Agricultural Production
165 Inputs, as defined in this Rule, to Qualified Agricultural Producers holding a Georgia
166 Agriculture Tax Exemption (GATE) Certificate issued by the Georgia Department of
167 Agriculture are exempt from state sales and use tax and all Local Sales and Use Tax.
- 168 (5) **Exemption for Agricultural Machinery and Equipment.** Sales (including leases) of
169 Agricultural Machinery and Equipment, as defined in this Rule, to Qualified Agricultural
170 Producers holding a GATE Certificate are exempt from state sales and use tax and all
171 Local Sales and Use Tax. The exemption includes Machinery and Equipment expressly
172 listed in O.C.G.A. § 48-8-3.3(a)(1)(B) and Machinery and Equipment used in
173 Agricultural Operations.
- 174 (a) Machinery and Equipment used in Agricultural Operations. Agricultural
175 Operations can differ significantly from one to another. Thus, when determining
176 whether Machinery or Equipment is used in Agricultural Operations, the
177 Department of Revenue may evaluate the facts and circumstances of each case.
- 178 1. Examples of Machinery or Equipment that are not used in Agricultural
179 Operations at any time generally include but are not limited to:
- 180 (i) Motor Vehicles;
- 181 (ii) Power lines or transformers that provide electricity to an
182 agricultural operation;

- 183 (iii) Real Property, other than grain bins, fencing, and irrigation
 184 equipment used in an Agricultural Operation, including but not
 185 limited to concrete slabs and foundations, and structures or
 186 Fixtures used for ventilation, heating, cooling, illumination,
 187 communications, plumbing, or the personal comfort and
 188 convenience of employees;
- 189 (iv) Administrative Machinery or Equipment, including computers,
 190 related computer peripherals, servers, copiers, telephones,
 191 facsimile machines, office furniture, office furnishings, office
 192 supplies such as paper and pencils, and educational materials used
 193 for non-agricultural functions, including but not limited to sales,
 194 marketing, research and development, accounting and payroll, and
 195 purchasing;
- 196 (v) Machinery or Equipment that is not operated under the control of
 197 the Qualified Agricultural Producer's employees or other persons
 198 under the Qualified Agricultural Producer's direction and control;
 199 and
- 200 (vi) Living organisms of any kind, including but not limited to people,
 201 Animals, and bacteria utilized in irrigation.
- 202 2. Except as otherwise provided in this Rule, Machinery and Equipment used
 203 in Agricultural Operations generally include but are not limited to
 204 Machinery and Equipment used:
- 205 (i) In the production of poultry and eggs for sale, including but not
 206 limited to brooder bulbs and Machinery and Equipment used in the
 207 cleaning or maintenance of poultry houses;
- 208 (ii) In the hatching and breeding of poultry and the breeding of
 209 Livestock and equine;
- 210 (iii) In the production, processing, and storage of fluid milk for sale;
- 211 (iv) In the drying, ripening, cooking, further processing, or storage of
 212 Agricultural Products;
- 213 (v) In the production of poultry, eggs, fluid milk, equine, or Livestock
 214 for sale;
- 215 (vi) For the purpose of harvesting Agricultural Products to be used on
 216 the Farm by that producer as feed for poultry, equine, or Livestock;
- 217 (vii) In tilling the soil or in Animal husbandry;
- 218 (viii) Exclusively for irrigation of Agricultural Products, including but
 219 not limited to fruit, vegetable, and nut crops regardless of whether

- 220 the irrigation Machinery or Equipment becomes incorporated into
221 Real Property;
- 222 (ix) To cool Agricultural Products in storage facilities;
- 223 (x) To produce Aquacultural products;
- 224 (xi) To maintain, clean, repair, restore, install, or upgrade Agricultural
225 Machinery and Equipment;
- 226 (xii) To provide worker safety or to protect the quality of the
227 Agricultural Product, including but not limited to safety Machinery
228 and Equipment required by federal or state law, gloves, ear plugs,
229 face masks, protective eyewear, hard hats or helmets, and
230 breathing apparatuses, regardless of whether the items would
231 otherwise be considered Consumable Supplies; and
- 232 (xiii) In harvesting timber, including all off-road Equipment and related
233 attachments used in every forestry procedure starting with the
234 severing of a tree from the ground until and including the point at
235 which the tree or its parts in any form has been loaded in the field
236 in or on a truck or other vehicle for transport to the place of use.
237 Such off-road Equipment includes but is not limited to skidders,
238 feller bunchers, debarkers, delimiters, chip harvesters, tub-grinders,
239 woods cutters, chippers of all types, loaders of all types, dozers,
240 mid-motor graders, and the related attachments.
- 241 3. Primary purpose. Except as otherwise provided in this Rule, an item of
242 Machinery or Equipment qualifies for exemption only if its primary
243 purpose is for use in an Agricultural Operation. "Primary purpose" means
244 the purpose for which an item of tangible personal property is used more
245 than one-half of the total amount of time that the item is in use.
246 Alternatively, instead of time, the purpose may be measured in terms of
247 other applicable criteria such as the number of items produced. The
248 Department of Revenue may consider any reasonable methodology for
249 measuring the primary purpose of Machinery or Equipment for which the
250 primary purpose is not readily identifiable.
- 251 (b) Parts withdrawn from inventory. Miscellaneous parts for which the ultimate use is
252 unknown at the time of purchase are eligible for the exemption as Repair,
253 Replacement, or Component Parts. However, use tax must be accrued and
254 remitted if parts are withdrawn from the inventory of parts and used for any
255 purpose other than to maintain, repair, restore, install, or upgrade Agricultural
256 Machinery and Equipment.
- 257 **(6) Exemption for Energy Used in Agriculture.** Sales of Energy Used in Agriculture, as
258 defined in this Rule, to Qualified Agricultural Producers holding a GATE Certificate are
259 exempt from state sales and use tax and all Local Sales and Use Tax.

- 260 (a) Metered energy. In order to purchase metered Energy Used in Agriculture without
261 the payment of tax, the energy must be metered separately from energy used for
262 non-agricultural purposes. Qualified Agricultural Producers must present to their
263 energy providers the GATE Certificate and the account numbers and service
264 addresses of meters to which the exemption applies.
- 265 1. De minimis use exception. If a single meter supplies energy for
266 Agricultural Purposes and energy for de minimis non-agricultural
267 purposes, a GATE Certificate holder is permitted to purchase all of the
268 energy supplied from the meter without the payment of tax, so long as that
269 meter does not supply energy for a personal residence. De minimis use
270 means use that represents ten (10) percent or less of the total amount of
271 energy supplied by a single meter.
- 272 (b) Non-metered energy. Qualified Agricultural Producers holding the GATE
273 Certificate are permitted to purchase non-metered energy, such as propane and
274 wood, tax exempt. Producers, however, must accrue and remit use tax on any
275 portion of the energy that is not used for Agricultural Purposes.
- 276 (c) Examples of Energy Used in Agriculture. Energy Used in Agriculture includes
277 but is not limited to:
- 278 1. Off-road diesel, propane, butane, electricity, natural gas, wood,
279 wood products, wood by-products and liquefied petroleum gas;
- 280 2. Fuel used in structures in which broilers, pullets, or other poultry
281 are raised, in which swine are raised, in which dairy Animals are
282 raised or milked or where dairy products are stored on a Farm, in
283 which Agricultural Products are stored, and in which plants,
284 seedlings, nursery stock, or floral products are raised primarily for
285 the purpose of making sales of such plants, seedlings, nursery
286 stock, or floral products for resale;
- 287 3. Fuel for the operation of an irrigation system which is used on a
288 Farm exclusively for the irrigation of Agricultural Products; and
- 289 4. Fuel used in the drying, cooking, or further processing of raw
290 Agricultural Products.
- 291 (d) Examples of energy that is not exempt under O.C.G.A. § 48-8-3.3.
- 292 1. Energy not used for Agricultural Purposes;
- 293 2. Gasoline, clear diesel, and aviation gasoline;
- 294 3. Liquefied petroleum gas and special fuel (including compressed natural
295 gas) when used to propel a Motor Vehicle on the public highways;
- 296 4. Energy used for administrative activities; and
- 297 5. Energy used in a personal residence.

- 298 (7) **Exemption for diesel exhaust fluid.** Effective July 1, 2024, sales of diesel exhaust fluid
299 to Qualified Agricultural Producers for Agricultural Uses only are exempt from state
300 sales and use tax and all Local Sales and Use Taxes. The exemption is available only to
301 Qualified Agricultural Producers holding a GATE Certificate.
- 302 (8) **Certificates of ~~e~~Exemption.** Department of Revenue Agricultural Certificate of
303 Exemption (Form ST-A1) is not valid for purchases occurring on or after January 1, 2013.
- 304 (a) GATE Certificate. Any person making a sale or lease of Agricultural Production
305 Inputs, Agricultural Machinery and Equipment, or Energy Used in Agriculture
306 must collect sales and use tax unless such person, in good faith, takes from the
307 purchaser or lessee a GATE Certificate.
- 308 1. Qualified Agricultural Producers may obtain a GATE Certificate from the
309 Georgia Department of Agriculture.
- 310 2. GATE Certificate holders must meet the requirements of this Rule to
311 qualify for the exemptions in O.C.G.A. § 48-8-3.3.
- 312 3. Effective May 3, 2018, GATE card applicants are required by O.C.G.A. §
313 48-8-3.3(d)(2) to provide to the Georgia Department of Agriculture a valid
314 state taxpayer identification number. For out-of-state GATE applicants
315 that are not required to file any Georgia tax returns, “a state taxpayer
316 identification number” means, for purposes of this Rule only, a social
317 security number or a federal employer identification number (FEIN or
318 EIN). For all other applicants, “a state taxpayer identification number”
319 means, for purposes of this Rule only, the applicant’s Georgia sales and
320 use tax account number, Georgia individual income tax account number
321 (social security number), or Georgia corporate income tax account number
322 (federal employer identification number).
- 323 (b) Refunds. When tax is remitted on the purchase or lease of exempt Agricultural
324 Production Inputs, Machinery, Equipment, or Energy Used in Agriculture,
325 Qualified Agricultural Producers holding a GATE Certificate may apply to the
326 Department of Revenue for a refund pursuant to O.C.G.A. § 48-2-35. For
327 purchases occurring on or after January 1, 2013, tax will not be refunded unless
328 the purchaser held a GATE Certificate at the time of purchase.
- 329 (98) **Non-transferability.** Exemptions under this Rule are non-transferable.
- 330 (109) **Manufacturers.** Every person defined as a “dealer” in O.C.G.A. § 48-8-2 is required to
331 file a sales and use tax registration for each place of business in this state. A dealer that
332 qualifies for manufacturing exemptions under O.C.G.A. § 48-8-3.2 and agricultural
333 exemptions under O.C.G.A. § 48-8-3.3 at a single place of business may avail itself of the
334 exemptions under either O.C.G.A. § 48-8-3.2 or O.C.G.A. § 48-8-3.3, but not both, for
335 that place of business in any one calendar year.
- 336 (110) **Contractors.** Notwithstanding subsection (c) of O.C.G.A. § 48-8-63, contractors will not
337 incur any use tax on:

- 338 (a) Tangible personal property that a Qualified Agricultural Producer purchases tax-
339 exempt under O.C.G.A. § 48-8-3.3 and furnishes to such contractor for use in the
340 performance of an agricultural operation, so long as such property retains the
341 character of tangible personal property and is returned to the Qualified
342 Agricultural Producer upon the completion of the contract; or
- 343 (b) Grain bins, irrigation equipment, and fencing or the Repair, Replacement, or
344 Component Parts to grain bins, irrigation equipment, or fencing that a Qualified
345 Agricultural Producer purchases tax-exempt under O.C.G.A. § 48-8-3.3 for use in
346 an agricultural operation and furnishes to such contractor for installation into Real
347 Property.

348 Authority: O.C.G.A. §§ 48-2-12, 48-8-2, 48-8-3.3.

PROPOSED

**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

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- 12 **560-12-2-.20 Competitive Projects of Regional Significance**
- 13 (1) Purpose. This Rule only addresses sales of tangible personal property used for and in the
- 14 construction of a ~~competitive project of regional significance~~ Competitive Project of
- 15 Regional Significance. Rule 560-12-2-.64 addresses the exemption for sales to
- 16 ~~competitive projects of regional significance of energy that is necessary and integral to~~
- 17 ~~manufacturing.~~
- 18 (2) Definitions. For purposes of this Rule only,
- 19 (a) "~~C~~ompetitive ~~p~~Project of ~~r~~Regional ~~s~~Significance" (hereinafter "Project") means
- 20 the location or expansion of some or all of a business enterprise's operations in
- 21 Georgia where the commissioner of economic development determines that the
- 22 ~~project~~Project would have a significant regional impact.
- 23 (b) "Energy" means natural or artificial gas, oil, gasoline, electricity, solid fuel,
- 24 wood, waste, ice, steam, water, and other materials necessary and integral for
- 25 heat, light, power, refrigeration, climate control, processing, or any other use in
- 26 any phase of the manufacture of tangible personal property.
- 27 (3) Construction exemption. To qualify for exemption, property must be:
- 28 (a) used exclusively for and in the construction of a Project; and
- 29 (b) purchased prior to completion of the construction of the Project.
- 30 (4) Property used exclusively for and in the construction of a Project.
- 31 (a) Property used exclusively for and in the construction of a Project excludes:
- 32 1. Property brought onto the construction site, but not used in furtherance of
- 33 the completion of a Project, such as a wrench used only to repair a
- 34 worker's personal vehicle or nails that remain in the original store
- 35 packaging;
- 36 2. Property used for administrative activities on the construction site, such as
- 37 sales promotion, general office work, credit and collection, purchasing,
- 38 and clerical work;
- 39 3. Power lines or transformers that bring electricity into the construction site;

- 40 4. Property used for personal comfort or convenience at the construction site,
41 such as portable toilets, food, heaters, and air conditioning units;
- 42 5. Hotel accommodations;
- 43 6. Motor vehicles; and
- 44 7. Property that is owned or possessed by a contractor or a related party after
45 completion of the Project's construction.
- 46 (b) Property used exclusively for and in the construction of a Project includes only
47 tangible personal property that:
- 48 1. remains tangible personal property at a Project's location after the
49 completion of construction;
- 50 2. is incorporated into the real property structures at a Project's location; or
- 51 3. is used by contractors for the sole purpose of constructing a Project's real
52 property structures.
- 53 (c) Energy.
- 54 1. Energy used in construction. Sales of Energy used for and in the
55 construction of a Project are exempt from all state and local sales and use
56 taxes pursuant to O.C.G.A. § 48-8-3(93), including sales and use taxes for
57 educational purposes.
- 58 2. Energy necessary and integral to manufacturing. Beginning April 19,
59 2012, manufacturers that qualify as a Project and qualify for the
60 manufacturing exemption in O.C.G.A § 48-8-3.2 are exempt from all state
61 and local sales and use taxes on the sale and use of Energy that is
62 necessary and integral to the manufacture of tangible personal property,
63 except:
- 64 (i) Sales and use tax for educational purposes. Energy otherwise
65 exempt under O.C.G.A § 48-8-3.2 is not exempt from the sales and
66 use tax for educational purposes levied pursuant to Part 2 of
67 Article 3 of Chapter 8 and Article VIII, Section VI, Paragraph IV
68 of the Constitution or from local sales and use taxes for
69 educational purposes authorized by or pursuant to local
70 constitutional amendment.
- 71 (ii) Energy used to produce electricity. The exemption in O.C.G.A §
72 48-8-3.2 for the sale and use of Energy that is necessary and
73 integral to the manufacture of tangible personal property does not
74 apply to Energy purchased by a manufacturer that is primarily
75 engaged in producing electricity for resale.
- 76 (5) Letter of authorization. Following notification from the commissioner of economic
77 development that a Project has been certified, the Department of Revenue may issue a

- 78 letter of authorization to each location within the Project. Sellers are required to collect
79 sales tax unless they take in good faith a letter of authorization.
- 80 (6) Expiration of letters of authorization. A letter of authorization expires with respect to a
81 location within a Project when that location commences business operations.
- 82 (7) Contractor purchases. A Project may authorize contractors to use the letter of
83 authorization to make exempt purchases. By January 31 of each year, a Project must
84 provide to the Department of Revenue a list of all contractors authorized in the previous
85 calendar year and include for each contractor the business name, address, telephone
86 number, and Georgia sales tax number.
- 87 (8) Contractors' use tax liability. Notwithstanding O.C.G.A. § 48-8-63(b) and (c), contractors
88 will not incur use tax on tangible personal property qualifying for exemption under this
89 Rule that is purchased by or furnished to the contractor, regardless of whether the
90 property retains the character of tangible personal property or becomes incorporated into
91 real property.
- 92 Authority: O.C.G.A. §§ 48-2-12, 48-8-2, 48-8-3, 48-8-3.2.

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**RULES
OF
DEPARTMENT OF REVENUE**

**CHAPTER 560-12
SALES AND USE TAXES**

**SUBJECT 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

11 **TABLE OF CONTENTS**

12 560-12-2-.62. Manufacturing Machinery and Equipment, Industrial Materials, and Packaging
13 Supplies

14
15 **560-12-2-.62. Manufacturing Machinery and Equipment, Industrial Materials, and**
16 **Packaging Supplies**

17 (1) Purpose. This Rule explains the sales and use tax exemptions in O.C.G.A § 48-8-3.2 for
18 machinery and equipment necessary and integral to the manufacture of tangible personal
19 property in a manufacturing plant, for repair and replacement parts associated with such
20 machinery and equipment, and for industrial materials and packaging supplies.

21 (2) Definitions. For purposes of this Rule, the following definitions and explanations apply:

22 (a) "Consumable supplies" means tangible personal property, other than machinery,
23 industrial materials, packaging supplies, and energy, that is consumed or
24 expended during the manufacture of tangible personal property. The term includes
25 but is not limited to water treatment chemicals for use in, on, or in conjunction
26 with machinery or equipment and items that are readily disposable.

27 (b) "Energy" means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood,
28 waste, ice, steam, water, and other materials necessary and integral for heat, light,
29 power, refrigeration, climate control, processing, or any other use in any phase of
30 the manufacture of tangible personal property. The term excludes energy
31 purchased by a manufacturer that is primarily engaged in producing electricity for
32 resale.

33 (c) "Equipment" means tangible personal property, other than machinery, industrial
34 materials, and energy. The term "equipment" includes durable devices and
35 apparatuses that are generally designed for long-term continuous or repetitive use.
36 The term also includes consumable supplies. Examples of equipment include but
37 are not limited to machinery clothing, cones, cores, pallets, hand tools, tooling,
38 molds, dies, waxes, jigs, patterns, conveyors, safety devices, and pollution control

- 39 devices. The term includes components and repair or replacement parts. The term
40 "equipment" excludes real property.
- 41 (d) "Fixtures" means tangible personal property that has been installed or attached to
42 land or to any building thereon and that is intended to remain permanently in its
43 place. A consideration for whether tangible property is a fixture is whether its
44 removal would cause significant damage to such property or to the real property
45 to which it is attached. Fixtures are classified as real property. Examples of
46 fixtures include but are not limited to plumbing, lighting fixtures, slabs, and
47 foundations.
- 48 (e) "Industrial materials" means materials that are purchased for future processing,
49 manufacture, or conversion into articles of tangible personal property for resale
50 when the industrial materials become a component part of the finished product.
51 The term also means materials that are coated upon or impregnated into the
52 product at any stage of its processing, manufacture, or conversion, even though
53 such materials do not remain a component part of the finished product for sale.
54 The term "industrial materials" includes raw materials.
- 55 (f) "Local sales and use tax" means any sales or use tax that is levied and imposed in
56 an area consisting of less than the entire state.
- 57 (g) "Machinery" means an assemblage of parts that transmits force, motion, and
58 energy one to the other in a predetermined manner to accomplish a specific
59 objective. The term "machinery" includes a machine and all of its components,
60 including but not limited to belts, pulleys, shafts, gauges, gaskets, valves, hoses,
61 pipes, wires, blades, bearings, operational structures attached to the machine
62 including stairways and catwalks, and other devices that are required to regulate
63 or control the machine, allow access to the machine, or to enhance or alter its
64 productivity or functionality. The term "machinery" includes repair or
65 replacement parts. The term excludes real property, energy, and consumable
66 supplies.
- 67 (h) "Machinery clothing" means felts, screen plates, wires or any other items used to
68 carry, form, or dry work in process through the manufacture of tangible personal
69 property.
- 70 (i) "Manufacture of tangible personal property," used synonymously with the
71 term "manufacturing," means a manufacturing operation, series of
72 continuous manufacturing operations, or series of integrated
73 manufacturing operations, engaged in at a manufacturing plant or among
74 manufacturing plants to change, process, transform, or convert industrial
75 materials by physical or chemical means, into articles of tangible personal
76 property for sale, for promotional use, or further manufacturing that have a
77 different form, configuration, utility, composition, or character. The term
78 includes but is not limited to the storage, preparation, or treatment of

79 industrial materials; assembly of finished units of tangible personal
80 property to form a new unit or units of tangible personal property;
81 movement of industrial materials and work in process from one
82 manufacturing operation to another; temporary storage between two points
83 in a continuous manufacturing operation; random and sample testing that
84 occurs at a manufacturing plant; and a packaging operation that occurs at a
85 manufacturing plant.

86 (j) "Manufacturer" means a person or business, or a location of a person or business
87 that is engaged in the manufacture of tangible personal property for sale,
88 promotional use, or further manufacturing.

89 1. To be considered a manufacturer, the person or business, or the location of
90 a person or business, must be:

91 (i) Classified as a manufacturer under the 2007 North American
92 Industrial Classification System Sectors 21, 31, 32, or 33; or North
93 American Industrial Classification Systems industry code 22111 or
94 specific code 511110; or

95 (ii) Generally regarded as a manufacturer.

96 2. Businesses that are primarily engaged in providing personal or
97 professional services, or in the operation of retail outlets, generally including but
98 not limited to grocery stores, pharmacies, bakeries, or restaurants, are not
99 considered manufacturers.

100 (k) "Manufacturing plant" means any facility, site, or other area where a manufacturer
101 engages in the manufacture of tangible personal property.

102 (l) "Packaging operation" means bagging, boxing, crating, canning,
103 containerizing, cutting, measuring, weighing, wrapping, labeling, palletizing, or
104 other similar processes necessary to prepare or package manufactured products in
105 a manner suitable for sale or delivery to customers as finished goods, or suitable
106 for the transport of work in process at or among manufacturing plants for further
107 manufacturing, and the movement of such finished goods or work in process to a
108 storage or distribution area at a manufacturing plant.

109 (m) "Packaging supplies" means materials, whether reusable or single-use, used in a
110 packaging operation solely for packaging tangible personal property. The term
111 includes but is not limited to containers, sacks, boxes, wraps, fillers, cones, cores,
112 pallets, and bags. The term also includes such items as labels, invoices, packing

- 113 slips, tags, and plates affixed to the product or affixed to or inserted into product
114 packaging.
- 115 (n) "Real property" means land, any buildings thereon, and any fixtures attached
116 thereto.
- 117 (o) "Repair or replacement part" means a part that is used to maintain, repair, restore,
118 install, or upgrade machinery or equipment that is necessary and integral to the
119 manufacture of tangible personal property. Examples of repair and replacement
120 parts may include but are not limited to oils, greases, hydraulic fluids, coolants,
121 lubricants, machinery clothing, molds, dies, waxes, jigs, and other
122 interchangeable tooling.
- 123 (p) "Substantial purpose" means the purpose for which an item of tangible personal
124 property is used more than one-third of the total amount of time that the item is in
125 use. Alternatively, instead of time, the purpose may be measured in terms of other
126 applicable criteria such as the number of items produced.
- 127 (3) Machinery and Equipment Exemption. The sale, use and storage of machinery or
128 equipment that is necessary and integral to the manufacture of tangible personal property
129 are exempt from sales and use tax.
- 130 (a) General requirements. In order to qualify for the manufacturing machinery and
131 equipment exemption in O.C.G.A § 48-8-3.2, the property purchased or leased
132 must:
- 133 1. Have the character of machinery or equipment, or of repair or replacement
134 parts to machinery or equipment, at the time of sale or lease, or consist of
135 components which, when assembled, will have the character of machinery
136 or equipment;
- 137 2. Be used at a manufacturing plant; and
- 138 3. Be necessary and integral to the manufacture of tangible personal property
139 for sale, for promotional use, or further manufacturing.
- 140 (b) Leases. The exemption under O.C.G.A § 48-8-3.2 applies to all lease payments
141 for machinery or equipment made on or after the date that the machinery or
142 equipment qualifies for the exemption, even if the machinery or equipment did
143 not qualify for the exemption at the date of lease inception.
- 144 (c) Parts withdrawn from inventory. Miscellaneous spare parts, the ultimate use of
145 which is unknown at the time of purchase, are eligible for the exemption as
146 components or repair or replacement parts. However, use tax must be accrued and
147 remitted if spare parts are withdrawn from the inventory of spare parts and used
148 for any purpose other than to maintain, repair, restore, install, or upgrade

- 149 machinery or equipment that is necessary and integral to the manufacture of
150 tangible personal property.
- 151 (d) Application of Machinery and Equipment Exemption: Necessary and Integral.
152 When determining whether machinery or equipment is necessary and integral to
153 the manufacture of tangible personal property, the Commissioner shall evaluate
154 the facts and circumstances of each case.
- 155 1. Examples of machinery or equipment that generally does not qualify as
156 necessary and integral to the manufacture of tangible personal property at
157 any time include but are not limited to:
- 158 (i) Motor vehicles that are required to be registered for operation on
159 public highways;
- 160 (ii) Power lines or transformers that bring electricity into a
161 manufacturing plant;
- 162 (iii) Real property. Examples include but are not limited to concrete
163 slabs and foundations, and structures or fixtures used for general
164 manufacturing plant ventilation, heating, cooling, illumination,
165 communications, plumbing, or the personal comfort and
166 convenience of the manufacturer's employees;
- 167 (iv) Storage tanks, containers, racking systems, or other machinery or
168 equipment used to handle, store, or distribute finished goods upon
169 completion of the packaging operation unless exempted by another
170 code section;
- 171 (v) Administrative machinery or equipment including computers,
172 related computer peripherals, servers, copiers, telephones,
173 facsimile machines, office furniture, office furnishings, office
174 supplies such as paper and pencils, and educational materials used
175 for non-manufacturing functions, including but not limited to sales,
176 marketing, research and development, accounting and payroll,
177 purchasing, finished goods inventory control, warehousing, and
178 distribution;
- 179 (vi) Machinery or equipment that is not operated under the control of
180 the manufacturer's employees or other persons under the
181 manufacturer's direction and control. Customer self-service or

- 182 vending machinery or equipment is not considered to be operated
183 under the manufacturer's direction and control; and
- 184 (vii) Machinery or equipment used in quarrying and mining for site
185 preparation, including the removal and clearing of overburden.
- 186 2. Examples of machinery or equipment that generally qualifies as necessary
187 and integral to the manufacture of tangible personal property include but
188 are not limited to:
- 189 (i) Machinery or equipment used to convey or transport industrial
190 materials, work in process, consumable supplies, or packaging
191 supplies at or among manufacturing plants, or to convey and
192 transport finished goods to a distribution or storage point at the
193 manufacturing plant. Specific examples may include but are not
194 limited to forklifts, conveyors, cranes, hoists, and pallet jacks;
- 195 (ii) Machinery or equipment used to gather, arrange, sort, mix,
196 measure, blend, heat, cool, clean, or otherwise treat, prepare, or
197 store industrial materials for further manufacturing;
- 198 (iii) Machinery or equipment used to control, regulate, heat, cool, or
199 produce energy for other machinery or equipment that is necessary
200 and integral to the manufacture of tangible personal property.
201 Specific examples may include but are not limited to boilers,
202 chillers, condensers, water towers, dehumidifiers, humidifiers, heat
203 exchangers, generators, transformers, motor control centers, solar
204 panels, air dryers, and air compressors;
- 205 (iv) Testing and quality control machinery or equipment located at a
206 manufacturing plant used to test the quality of industrial materials,
207 work in process, or finished goods;
- 208 (v) Starters, switches, circuit breakers, transformers, wiring, piping,
209 and other electrical components, including associated cable trays,
210 conduit, and insulation, located between a motor control center and
211 exempt machinery or equipment, or between separate units of
212 exempt machinery or equipment;
- 213 (vi) Machinery or equipment used to provide safety for the employees
214 working at a manufacturing plant or to protect the quality of the
215 product, including but not limited to safety machinery and
216 equipment required by federal or state law, gloves, ear plugs, face

- 217 masks, protective eyewear, hard hats or helmets, or breathing
218 apparatuses;
- 219 (vii) Machinery or equipment used to condition air or water to produce
220 conditions necessary for the manufacture of tangible personal
221 property, including water treatment systems;
- 222 (viii) Machinery or equipment used in quarrying and mining activities,
223 including blasting, extraction, and crushing;
- 224 (ix) Machinery or equipment, including repair, replacement and
225 component parts, used to maintain, clean, repair, restore, install,
226 upgrade or manufacture machinery or equipment that is necessary
227 and integral to the manufacture of tangible personal property;
- 228 (x) Machinery or equipment used in pollution control, sanitizing,
229 sterilizing, or recycling processes. Pollution control machinery or
230 equipment that is necessary and integral to the manufacture of
231 tangible personal property is not required to be certified by the
232 Environmental Protection Division, Georgia Department of
233 Natural Resources as being adequate and necessary for the purpose
234 of eliminating or reducing air or water pollution; and
- 235 (xi) Maintenance and replacement parts for machinery or equipment,
236 stationary or in transit, used to mix, agitate, and transport freshly
237 mixed concrete in a plastic and unhardened state, including but not
238 limited to mixers and components, engines and components,
239 interior and exterior operational controls and components,
240 hydraulics and components, all structural components, and all
241 safety components.
- 242 (I) Sales and use taxes on motor fuel used as energy in a
243 concrete mixer truck are not exempt or refundable.
- 244 (II) Subparagraph (3)(d)2.(xi) is effective for the period
245 commencing on July 1, 2021, and ending on ~~June 30,~~
246 2026 June 30, 2031.
- 247 3. For machinery or equipment that has multiple purposes, some purposes
248 necessary and integral to the manufacture of tangible personal property,
249 and some purposes not necessary and integral to the manufacture of
250 tangible personal property, the substantial purpose of such machinery or
251 equipment will prevail for purposes of determining the eligibility for
252 exemption. The Commissioner may consider any reasonable methodology

- 253 for measuring the substantial purpose of machinery or equipment for
254 which the substantial purpose is not readily identifiable.
- 255 (e) Application of Machinery and Equipment Exemption: Manufacture of Tangible
256 Personal Property. The manufacture of tangible personal property commences as
257 industrial materials are received at a manufacturing plant and concludes once the
258 packaging operation is complete and the tangible personal property is ready for
259 sale or shipment, regardless of whether the manufacture of tangible personal
260 property occurs at one or more separate manufacturing plants.
- 261 Examples of activities that are not considered the manufacture of tangible
262 personal property:
- 263 1. Research and development activities;
 - 264 2. Storage, general handling, and distribution of finished goods inventory;
265 and
 - 266 3. Any other activity that occurs prior to industrial materials being received
267 at a manufacturing plant or after the completion of the packaging
268 operation at a manufacturing plant.
- 269 (4) Industrial Materials Exemption. The sale, use, storage, and consumption of industrial
270 materials are exempt from sales and use tax. In order to qualify for the exemption, the
271 materials must be used for the processing or manufacture of, or conversion into, articles
272 of tangible personal property; and the industrial materials must:
- 273 (a) become a component part of the finished product or
 - 274 (b) be coated upon or impregnated into the product at any stage of its processing,
275 manufacture, or conversion, even though such materials do not remain a
276 component part of the finished product for sale.
- 277 (5) Exemption for Packaging Supplies. The sale, use, storage, or consumption of packaging
278 supplies is exempt from sales and use tax.
- 279 (6) Certificates of Exemption.
- 280 (a) Any person making a sale or lease of machinery or equipment (including
281 components and repair or replacement parts) that is necessary and integral to the
282 manufacture of tangible personal property, packaging supplies, or industrial
283 materials must collect sales tax unless such person takes a direct pay permit from
284 the purchaser or lessee or, in good faith, accepts from the purchaser or lessee a
285 properly completed Form ST-5M Certificate of Exemption.
 - 286 (b) Where a certificate of exemption or direct pay permit has not been previously
287 obtained and submitted and tax is remitted on the purchase or lease of exempt

288 property, the purchaser or lessee may apply to the Commissioner for a refund of
289 such tax.

290 (7) Agriculture Producers. Every person defined as a dealer in O.C.G.A. § 48-8-2 is required
291 to file a sales and use tax registration for each place of business in this state. A dealer that
292 performs both manufacturing and agricultural operations at a single place of business
293 may avail itself of the exemptions under either O.C.G.A. § 48-8-3.2 or O.C.G.A. § 48-8-
294 3.3, but not both, for that place of business in any one calendar year.

295 Authority: O.C.G.A. §§ 48-2-12, 48-8-3.2.

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**RULES
OF
DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION**

**CHAPTER 560-12-2
SUBSTANTIVE RULES AND REGULATIONS**

TABLE OF CONTENTS

10 560-12-2-.64 Energy Necessary and Integral to Manufacturing

11
12 **560-12-2-.64 Energy Necessary and Integral to Manufacturing**

13 (1) Purpose. This Rule addresses the sales and use tax exemptions for ~~energy~~Energy used in
14 manufacturing.

15 (2) Definitions. The terms defined in Rule 560-12-2-.62 entitled "Manufacturing Machinery
16 and Equipment, Industrial Materials, and Packaging Supplies" apply to this Rule. In
17 addition, for purposes of this Rule, :

18 ~~(a) "Competitive project of regional significance" means the location or expansion of some or~~
19 ~~all of a business enterprise's operations in Georgia where the Department of Economic~~
20 ~~Development determines that the project would have a significant regional impact.~~

21 ~~(b)~~"Energy" means natural or artificial gas, oil, gasoline, electricity, solid fuel, wood, waste, ice,
22 steam, water, and other materials necessary and integral for heat, light, power,
23 refrigeration, climate control, processing, or any other use in any phase of the manufacture
24 of tangible personal property. The term excludes energy purchased by a manufacturer that
25 is primarily engaged in producing electricity for resale.

26 (3) Exemption under O.C.G.A § 48-8-3.2.

27 (a) Requirements. Except as otherwise provided in this paragraph, the sale and use of
28 ~~energy~~Energy are exempt from sales and use tax if the ~~energy~~Energy is:

29 1. necessary and integral to the manufacture of tangible personal property
30 and

31 2. sold, used, stored, or consumed at a manufacturing plant in Georgia.

32 (b) Energy used to produce electricity. This exemption does not apply to energy
33 purchased by a manufacturer that is primarily engaged in producing electricity for
34 resale.

35 (c) Sales and use tax for educational purposes. Energy otherwise exempt under
36 O.C.G.A § 48-8-3.2 is not exempt from the sales and use tax for educational
37 purposes levied pursuant to Part 2 of Article 3 of Chapter 8 and Article VIII,
38 Section VI, Paragraph IV of the Constitution or from local sales and use taxes for
39 educational purposes authorized by or pursuant to local constitutional amendment.

- 40 ~~(d) — Phase in period. Except as provided in subsections (b), (c), and (e) of this~~
 41 ~~paragraph, such sale and use of energy qualify for a phased-in exemption in~~
 42 ~~accordance with the following schedule:~~
- 43 1. ~~Transactions occurring during the 2013 calendar year qualify for a 25~~
 44 ~~percent exemption.~~
- 45 2. ~~Transactions occurring during the 2014 calendar year qualify for a 50~~
 46 ~~percent exemption.~~
- 47 3. ~~Transactions occurring during the 2015 calendar year qualify for a 75~~
 48 ~~percent exemption.~~
- 49 4. ~~Transactions occurring on or after January 1, 2016, qualify for a 100~~
 50 ~~percent exemption.~~
- 51 ~~(e) — Competitive projects of regional significance.~~
- 52 1. ~~Energy necessary and integral to manufacturing. Beginning April 19,~~
 53 ~~2012, manufacturers qualifying as a competitive project of regional~~
 54 ~~significance are exempt from all state and local sales and use tax on the~~
 55 ~~sale and use of energy that is necessary and integral to the manufacture of~~
 56 ~~tangible personal property, except as provided in subparagraphs (b) and~~
 57 ~~(c). The phase-in period set forth in subsection (d) does not apply.~~
- 58 2. ~~Energy used in construction. In addition to the exemption in O.C.G.A. §~~
 59 ~~48-8-3.2, for projects approved by the Department of Economic~~
 60 ~~Development during the time period of January 1, 2012 through June 30,~~
 61 ~~2019, sales of energy used for and in the construction of a competitive~~
 62 ~~project of regional significance are exempt from all state and local sales~~
 63 ~~and use tax pursuant to O.C.G.A. § 48-8-3(93), including sales and use~~
 64 ~~taxes for educational purposes.~~
- 65 (4) Exemption from the Special District Transportation Sales and Use Tax and the Special
 66 District Mass Transportation Sales and Use Taxes.
- 67 (a) Requirements. Except as otherwise provided in this paragraph, the sale and use of
 68 ~~energy~~Energy are exempt from the Special District Transportation Sales and Use
 69 Tax (O.C.G.A. Title 48, Chapter 8, Article 5) and the Special District Mass
 70 Transportation Sales and Use Taxes (O.C.G.A. Title 48, Chapter 8, Article 5A,
 71 Parts 1, 2, and 3) if the ~~energy~~Energy is:
- 72 1. necessary and integral to the manufacture of tangible personal property
 73 and
- 74 2. sold, used, stored, or consumed at a manufacturing plant.
- 75 (b) No phase-in period. This exemption is not subject to a phase-in period.
- 76 (c) Energy used to produce electricity. This exemption does not apply to energy
 77 purchased by a manufacturer primarily engaged in producing electricity for resale.

- 78 (5) Scope of the exemptions: Necessary and integral to the manufacture of tangible personal
79 property. Energy used for any purpose at a manufacturing plant is considered necessary
80 and integral to the manufacture of tangible personal property. This includes, for example,
81 ~~energy~~Energy used:
- 82 (a) to operate machinery or equipment;
 - 83 (b) to create conditions necessary for the manufacture of tangible personal property;
 - 84 (c) to perform an actual part of the manufacture of tangible personal property;
 - 85 (d) in administrative or other ancillary activities that are located and performed at the
86 manufacturing plant;
 - 87 (e) in related operations that convey, transport, handle, or store raw materials or
88 finished goods at the manufacturing plant; and
 - 89 (f) for heating, cooling, ventilation, illumination, fire safety or prevention, or
90 personal comfort and convenience of the manufacturer's employees at the
91 manufacturing plant.
- 92 (6) Examples.
- 93 (a) A manufacturer uses fuel gases to perform repairs for unrelated parties at a
94 Georgia manufacturing plant. The fuel gases are not exempt because they are not
95 used in the manufacture of tangible personal property and, therefore, do not meet
96 the definition of "~~energy~~Energy."
 - 97 (b) A manufacturer uses fuel gases to perform repairs to its own machinery and
98 equipment at a Georgia manufacturing plant. The fuel gases are exempt to the
99 extent provided in this Rule because they are used in the manufacture of tangible
100 personal property.
- 101 (7) ~~Certificates of E~~Exemption.
- 102 (a) Any person making a sale of ~~energy~~Energy that is necessary and integral to the
103 manufacture of tangible personal property must collect sales and use tax unless
104 the purchaser furnishes the supplier with a properly completed ~~c~~Certificate of
105 ~~e~~Exemption or a direct pay permit.
 - 106 (b) Where a ~~c~~Certificate of eExemption or direct pay permit has not been previously
107 obtained and submitted and tax is remitted on the sale of exempt ~~energy~~Energy,
108 the purchaser may apply to the Commissioner for a refund of such tax.
- 109 (8) Transaction date. For purposes of this Rule, a transaction occurs on the date of purchase
110 or, in the case of ~~energy~~Energy billed on a monthly basis, on the billing date.
- 111 Authority: O.C.G.A. §§ 48-2-12, 48-8-3, 48-8-3.2, 48-8-241, 48-8-269, 48-8-269.15, 48-8-
112 269.30.

40 computer graphics services, special effects services, animation services and script
41 production.

42 (g) — "Qualified Production Activities" means the production or postproduction of film
43 or video projects including feature films, series, pilots, movies for television,
44 commercials, music videos or sound recordings used in feature films, series, pilots
45 or movies for television, for which the film producer or film production company
46 will be compensated and which are intended for nation-wide commercial
47 distribution.

48 (3) — Purchases. Except as provided for in paragraph (4) of this Regulation, the tax does not
49 apply to all tangible personal property or taxable services purchased, leased, or rented for
50 use in production activities. Such purchases include, but are not limited to, office
51 equipment, furniture or supplies, maintenance or janitorial equipment and supplies, motor
52 vehicles, trailers and motor homes, nonqualified production equipment,
53 telecommunications equipment, catering services, including food and beverages and
54 restaurant meals, any fuel or gas, lodging, flowers and gifts.

55 (4) — Production Equipment or Production Services Exemption.

56 (a) — In accordance with O.C.G.A. § 48-8-3(73), transactions occurring on or after
57 January 1, 2002, which involve the purchase of production equipment or
58 production services for exclusive use in Georgia, not otherwise exempt under
59 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, will be exempt
60 from sales and use tax.

61 (b) — General Requirements for the Production Equipment or Production Services
62 Exemption. In order to qualify for the production equipment or production
63 services exemption provided for in O.C.G.A. § 48-8-3(73) and this Regulation,
64 the following conditions must be met:

65 1. — The qualified purchasers, renters or lessees of such production equipment
66 or production services must obtain a Certificate of Exemption from the
67 Commissioner as provided in paragraph (4)(c) of this Regulation. The
68 application for such Certificate of Exemption must be requested using the
69 Application for Certificate of Exemption (Form ST-PE1) and contain an
70 itemized listing of the production equipment or production services.

71 2. — The production equipment or production services must be purchased,
72 rented or leased for exclusive use in this state by a certified film producer
73 or certified film production company.

74 3. — As a condition precedent to the issuance of the Certificate of Exemption, a
75 film producer or film production company must submit an application to
76 the Commissioner with their designation as a certified film producer or
77 certified film production company.

78 4. — The application shall not be valid without prior written approval by the
79 Georgia Film and Videotape Office of the Department of Industry, Trade

80 and Tourism designating the film producer or film production company to
81 be a certified film producer or certified film production company.

82 (c) — ~~Application and Certificate of Exemption.~~

83 1. — ~~Any purchaser or lessee desiring to secure the benefits of the exemption
84 provided by O.C.G.A. § 48-8-3(73) must file an Application for
85 Certificate of Exemption (Form ST-PE1). The application shall include the
86 following information: name of the producer, name of the production
87 company, title of the project, type of project (feature film, television
88 series, commercial, etc.), dates of project (production through final shoot
89 day), federal employer's identification number, description of the property
90 anticipated to be purchased, including the sales price or rental or lease
91 amount payable, and a copy of the certification from the Georgia Film and
92 Videotape Office of the Department of Industry, Trade and Tourism. In
93 addition thereto, the Commissioner may require such other information as
94 deemed necessary for the determination of the claim for exemption.~~

95 2. — ~~Upon approval of an application, the Commissioner will issue a Certificate
96 of Exemption (Form ST-PE2) for presentation by the purchaser, renter or
97 lessee to the production equipment or production service suppliers,
98 whereupon the purchaser or lessee shall be relieved from the payment of
99 the tax and the equipment suppliers shall be relieved from the collection of
100 the tax.~~

101 3. — ~~Where the Certificate of Exemption (Form ST-PE2) has not previously
102 been obtained and tax is collected or accrued on the purchase or lease of
103 production equipment or production services, which may qualify for
104 exemption, the purchaser or lessee may apply for a refund of such tax. The
105 Claim for Refund (Form ST-12) shall be accompanied by an Application
106 for Certificate of Exemption (Form ST-PE1) and any other documentation
107 deemed necessary by the Commissioner.~~

108 (d) — ~~Specific Applications; Exemptions and Exceptions Relating Thereto.~~

109 1. — ~~Production equipment when sold or leased to a certified film producer or
110 certified film production company and used exclusively in connection
111 with a qualified film production activity in Georgia is exempt from
112 Georgia sales and use tax. Such equipment shall include, but is not limited
113 to:~~

114 (i) — ~~Camera equipment, supplies and accessories;~~

115 (ii) — ~~Motion picture film and videotape stock;~~

116 (iii) — ~~Digital discs and masters;~~

117 (iv) — ~~Lighting equipment, including gel, bulbs and lamps;~~

118 (v) — ~~Stage equipment;~~

- 150 3. ~~The exemption provided for under O.C.G.A. § 48-8-3(73) shall not extend~~
151 ~~to:~~
- 152 (i) ~~Leases or rentals that are continuous in nature where the leased or~~
153 ~~rented equipment is not exclusively for use in Georgia;~~
- 154 (ii) ~~Equipment used for both qualifying production activities and non-~~
155 ~~qualifying production activities;~~
- 156 (iii) ~~Any person who contracts to furnish tangible personal property~~
157 ~~and perform services under a real property contract. Contractors~~
158 ~~are deemed to be the consumers of all tangible personal property~~
159 ~~used in a real property contract and shall pay the tax at the time of~~
160 ~~purchase; and~~
- 161 (iv) ~~Items not considered production equipment or production services.~~
162 ~~Such items include, but are not limited to, office supplies and~~
163 ~~furniture, bottled water, catered food and beverages, crew~~
164 ~~uniforms, flowers and plants used off the set, personal gifts,~~
165 ~~utilities, cell phones, pagers and battery chargers, hotel rooms and~~
166 ~~lodging, reusable shipping cases and packaging materials,~~
167 ~~janitorial supplies, make up, motor fuel, repairs to equipment,~~
168 ~~transportation services, purchases of motor vehicles or motor~~
169 ~~vehicle leases or rentals used to transport items or individuals and~~
170 ~~any other tangible personal property or taxable services not~~
171 ~~specifically exempt under this Regulation.~~
- 172 4. ~~If, after obtaining the Certificate of Exemption required under paragraph~~
173 ~~(4)(c) of this Regulation, the actual purchase(s) or lease(s) fails to meet the~~
174 ~~requirements for this exemption, the dealer will be liable for tax, penalty~~
175 ~~and interest on the purchase(s) or lease(s).~~
- 176 (5) Sales.
- 177 (a) ~~Charges for services rendered by a film producer or film production company are~~
178 ~~exempt when performing production or postproduction work on a motion picture~~
179 ~~master under the direction of another producer or production or post-production~~
180 ~~company. Postproduction work includes, but is not limited to, editing and~~
181 ~~synchronization of a motion picture master.~~
- 182 (b) ~~The sale or rental of master tapes or master records that are used by the recording~~
183 ~~industry in reproducing audio recordings and visual images for showing on~~
184 ~~screens or television are not considered subject to sales and use tax.~~
- 185 (c) ~~Sales of training films or other non-qualified production activities that are not~~
186 ~~reproduced are subject to sales and use tax.~~

- 187 ~~(d) — Retail sales of any film producer's or production company's assets that would not~~
- 188 ~~otherwise be exempt from Georgia sales and use tax, are subject to sales and use~~
- 189 ~~tax.~~

- 190 ~~(e) — A transaction involving only a charge for a copyright license and does not include~~
- 191 ~~a sale, lease, or rental of video tape or motion picture film would not be~~
- 192 ~~considered taxable.~~

PROPOSED