

Date Issued: January 29, 2015
Georgia Letter Ruling: LR SUT-2014-19
Topic: Manufacturing Exemption

This letter is in response to your request for guidance on the application of Georgia sales and use tax on transactions involving the lease of printing equipment by a business engaged in the printing and design of tangible personal property for resale which is owned and operated by the Taxpayer who is primarily engaged in an unrelated service.

Facts Presented by Taxpayer

Taxpayer is primarily engaged in an unrelated service. Taxpayer is a 501(c)(3) organization for federal income tax purposes. The North American Industry Classification System (“NAICS”) code assigned to Taxpayer reflects the 501(c)(3) status attributable to their primary service, rather than its printing and design division, which is not a separate legal entity. The printing division is located at the Taxpayer’s location of business, and its primary function is the printing and reproduction of materials sold to the general public. Taxpayer leases printing equipment used to produce the tangible personal property it sells. Sales tax is collected on the retail sale of the printed items when sold by Taxpayer. The printing and design business’s gross revenue is a small percentage of Taxpayer’s total revenue.

Issue

Is Taxpayer a “manufacturer” for purposes of qualifying for the sales and use tax exemptions provided by O.C.G.A. § 48-8-3.2?

Analysis

Georgia levies and imposes a tax (subject to certain specific exemptions) on the retail purchase, retail sale, storage, use, or consumption of tangible personal property, certain enumerated services, and utilities.¹ Effective January 1, 2013, exemptions apply to the sale, use, or storage of machinery and equipment that are necessary and integral to the manufacture of tangible personal property, industrial materials, and packaging supplies.²

Georgia code section 48-8-3.2 and Ga. Comp. R. & Regs. r. 560-12-32-.32 substantially define the term “manufacturer” in the same manner as follows:

- (10) “Manufacturer” means a person or business, or a location of a person or business that is engaged in the manufacture of tangible personal property for sale or further manufacturing. To be considered a manufacturer, the person or business, or the location of a person or business, must be:
- (A) Classified as a manufacturer under the 2007 North American Industrial Classification System Sectors 21, 31, 32, or 33, or North American Industrial Classification System industry code 22111 or specific code 511110; or
 - (B) Generally regarded as being a manufacturer.

Businesses that are primarily engaged in providing personal or professional services or in the operation of retail outlets, generally including, but not limited to, grocery stores, pharmacies, bakeries, or restaurants, are not considered manufacturers.³

Taxpayer is primarily engaged in the provision of an unrelated services; for this reason, Taxpayer is not a manufacturer for purposes of Georgia’s sales and use tax exemptions provided by O.C.G.A. § 48-8-3.2.

¹ O.C.G.A. §§ 48-8-1, 48-8-2(31)(A), and 48-8-30(a).

² O.C.G.A. § 48-8-3.2(b), effective 1/1/2013.

³ O.C.G.A. § 48-8-3.2(10)(A)(B).

Ruling

Businesses that are primarily engaged in providing personal or professional services are not considered manufacturers. Because Taxpayer is primarily engaged in the provision of unrelated services Taxpayer is not a manufacturer and does not qualify for the sales and use tax exemptions provided by O.C.G.A. § 48-8-3.2.

The opinions expressed in this ruling are based upon the information contained in your request and limited to the specific transactions, facts, circumstances and taxpayer in question. Should the circumstances regarding the transactions change, or differ materially from those represented, then this ruling may become invalid. In addition, please be advised that subsequent statutory or administrative rule changes or judicial interpretations of the Statutes or Rules upon which this advice is based may subject similar future transactions to a different tax treatment than that expressed in this response.