

Date Issued: August 10, 2016  
Georgia Letter Ruling: LR SUT-2016-18  
Topic: Manufacturing

This letter is in response to your request for guidance on the application of Georgia sales and use tax to certain purchases.

### **Facts as Provided by Taxpayer**

Taxpayer is a manufacturer located in Georgia. Taxpayer rents or purchases the following items to ensure the safety of its employees:

- Booms, lifts, ladders, and scaffolding necessary to allow safe access to work areas<sup>1</sup>
- Flashlights, headlamps, light towers, and batteries for same, necessary to properly illuminate work areas
- Ear plugs
- Barricade tape, chains, tags, signs, labels, and placards to keep employees away from dangerous areas

Additionally, Taxpayer uses various chemicals and gases necessary for testing the quality of its product prior to shipment to customers.<sup>2</sup>

### **Issues**

What is the proper application of sales and use tax to Taxpayer's rental or purchase of booms, lifts, ladders, scaffolding, flashlights, headlamps, light towers, ear plugs, barricade tape, chains, tags, signs, labels, and placards for the purpose of worker safety and to Taxpayer's purchase of chemicals and gases used to test the quality of its product before shipment?

### **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.<sup>3</sup> O.C.G.A. § 48-8-3.2 provides a sales and use tax exemption for the sale, use, or storage of machinery and equipment necessary and integral to the manufacture of tangible personal property.<sup>4</sup> The exemption also applies to leases and rentals of such machinery and equipment.<sup>5</sup>

In order to qualify for this exemption, the property purchased or leased must:

1. Have the character of machinery or equipment, or of repair or replacement parts to machinery or equipment, at the time of sale or lease, or consist of components which, when assembled, will have the character of machinery or equipment;
2. Be used at a manufacturing plant; and
3. Be necessary and integral to the manufacture of tangible personal property for sale, for promotional use, or further manufacturing.<sup>6</sup>

"Equipment" means tangible personal property, other than machinery, industrial materials, and energy. The term "equipment" includes durable devices and apparatuses that are generally designed for long-term continuous or repetitive use as well as consumable supplies. Examples of equipment include cones, pallets, hand tools, tooling, waxes, and safety devices. The term includes components and repair or replacement parts.<sup>7</sup>

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<sup>1</sup> Specifically, Taxpayer rents the following: Genie Boom, Scissor Lift, JLG 80 Foot Boom, Z30/20 Manlift.

<sup>2</sup> The principal chemicals and gases used to test products are acetylene, argon, nitrogen, potassium iodine, dichloromethane, sodium thiosulfate, ferrous ammonium, tributyl phosphate, phosphoric acid, hydrochloric acid, sodium hydroxide, silver nitrate, cupriethylenediamine, buffers, and various reagents.

<sup>3</sup> O.C.G.A. §§ 48-8-1, 48-8-2(31)(A), and 48-8-30.

<sup>4</sup> O.C.G.A. § 48-8-3.2; Ga. Comp. R. & Regs. r. 560-12-2-.62(1).

<sup>5</sup> Ga. Comp. R. & Regs. r. 560-12-2-.62(3)(b).

<sup>6</sup> Ga. Comp. R. & Regs. r. 560-12-2-.62(3)(a).

<sup>7</sup> Ga. Comp. R. & Regs. r. 560-12-2-.62(2)(c).

The booms, lifts, ladders, scaffolding, flashlights, headlamps, light towers, batteries for the various lights, ear plugs, barricade tape, chains, tags, signs, labels, and placards meet the definition of “equipment” because these items are all tangible personal property and are not machines and are not industrial materials used for future processing. Likewise, to extent that such products are tangible personal property, chemicals and gases used by Taxpayer for quality control testing have the character of equipment.

Machinery or equipment that qualifies as “necessary and integral” to the manufacture of tangible personal property includes that which is “used to provide safety for the employees working at a manufacturing plant...including but not limited to safety machinery and equipment required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard hats or helmets, or breathing apparatuses.”<sup>8</sup> Equipment used for the testing the quality of finished goods is also considered “necessary and integral” to the manufacture of tangible personal property.<sup>9</sup> The subject items are used by Taxpayer to comply with federal safety standards, to ensure that employees have safe and proper access to work areas, or to assess the quality of products before shipment. Because the items meet the definition of equipment and are necessary and integral to manufacturing as safety equipment, the items in question are fully exempt from sales and use tax to the extent they are used in Taxpayer’s manufacturing plant.<sup>10</sup>

### **Rulings**

Taxpayer’s purchases and leases of booms, lifts, ladders, scaffolding, flashlights, headlamps, light towers, batteries for illumination devices, ear plugs, barricade tape, chains, tags, signs, labels, and placards used to ensure worker safety in a manufacturing plant are exempt from state and local sales and use tax. Additionally, Taxpayer’s purchases of various chemicals and gases used to test the quality of its product in a manufacturing plant before shipment are exempt from state and local sales and use tax.

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, this ruling may become invalid. Subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this ruling is based may subject similar future transactions to different tax treatment than that expressed in this ruling.

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<sup>8</sup> Ga. Comp. R. & Regs. r. 560-12-2-.62(3)(d)(2)(vi).

<sup>9</sup> Ga. Comp. R. & Regs. r. 560-12-2-.62(3)(d)(2)(iv).

<sup>10</sup> “Manufacturing plant” means any facility, site, or other area where a manufacturer engages in the manufacture of tangible personal property. O.C.G.A. § 48-8-3.2(a)(11), Ga. Comp. R. & Regs. r. 560-12-2-.62(2)(k). “Manufacturer” means 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 business, or the location, 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. O.C.G.A. § 48-8-3.2(a)(10), Ga. Comp. R. & Regs. r. 560-12-2-.62(2)(j). Additionally, “manufacture of tangible personal property” means a manufacturing operation, series of continuous manufacturing operations, or series of integrated manufacturing operations, engaged in at a manufacturing plant or among manufacturing plants to change, process, transform, or convert industrial materials by physical or chemical means, into articles of tangible personal property for sale, for promotional use, or further manufacturing that have a different form, configuration, utility, composition, or character. O.C.G.A. § 48-8-3.2(a)(9); Ga. Comp. R. & Regs. r. 560-12-2-.62(2)(i).