

Date Issued: October 11, 2016
Georgia Letter Ruling: LR SUT-2016-19
Topic: Manufacturing

This letter is in response to your request for guidance on the application of Georgia sales and use tax to equipment required to shred and compact office documents.

Facts Presented by Taxpayer

The Taxpayer's business involves the on-site shredding of office documents for customers and the sale of the shredded paper to paper brokers.

For on-site shredding, Taxpayer arranges for shredding trucks and associated electrical equipment and hydraulics to arrive at the customer's premises at a pre-arranged time. Documents for shredding are removed from the customer's premises to the parked shredding truck where the documents are shredded and compacted in the shredding truck. The shredded and compacted paper is then removed to Taxpayer's premises for further compacting, baling and ultimate sale to paper recyclers.

The shredding trucks include a bare chassis with an upgraded transmission necessary to provide the power take-off for operating the shredding equipment. Shredding trucks are required to be registered for operation on public highways. The following machinery/equipment is then installed into the truck chassis and directly used in the shredding operation:

1. Shredding equipment
2. Compactor
3. Conveyor
4. Truck body
5. Side lift; and,
6. Associated electrics and hydraulics

Taxpayer's North American Industry Classification System (NAICS) code is 561990, All Other Support Services. Most of Taxpayer's revenues are derived from providing services: [Redacted] % of revenues are from document management services and [Redacted] % of revenues are from the sale of shredded paper.

Issue

Is Taxpayer a manufacturer for purposes of Georgia's sales and use tax exemptions?

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 Exemptions apply to the sale, use, or storage of machinery and equipment that is necessary and integral to the manufacture of tangible personal property and the sale, use, storage, or consumption of industrial materials or packaging supplies. To qualify for such exemption, machinery, equipment, industrial materials, or supplies must be used in the manufacture of tangible personal property. In other words, the machinery, equipment, industrial materials, or supplies must be used by a manufacturer.²

O.C.G.A. § 48-8-3.2(a) and Ga. Comp. R. & Regs. r. 560-12-32-.62(2)(j) substantially define the term "manufacturer" in the same manner:

"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:

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).

- (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

Unlike sales of tangible personal property, which are generally presumed to be taxable, sales of a service are not subject to tax unless the service is specifically designated as taxable. Generally, a service provider is the ultimate consumer of the tangible personal property used in providing the service and is, as such, responsible for the tax on such property.⁴

Taxpayer is not classified as a manufacturer under the NAICS Sectors 21, 31, 32, or 33, or NAICS industry code 22111 or specific code 511110. Since Taxpayer is primarily engaged in the provision of document management services, Taxpayer is generally regarded as a service provider rather than a manufacturer.

Ruling

Because Taxpayer is not classified as a manufacturer under the 2007 North American Industrial Classification System and Taxpayer is primarily engaged in providing document management services, Taxpayer is not a manufacturer under O.C.G.A. § 48-8-3.2 and, thus, does not qualify for the sales and use tax exemptions applicable to manufacturers. Further, as Taxpayer uses the machinery at issue to provide a service, Taxpayer is the ultimate user of the tangible personal property and is responsible for the tax on such property.

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.

³ O.C.G.A. § 48-8-3.2(a)(10).

⁴ See O.C.G.A. § 48-8-63.