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BEFORE THE APPEALS DIVISION  
DEPARTMENT OF REVENUE  
STATE OF WASHINGTON

RULE 13601; RCW 82.08.02565: RETAIL SALES TAX -- M&E EXEMPTION -- EQUIPMENT -- INSTALLED COMPONENT -- FIRE SUPPRESSION SYSTEM. A fire suppression system that was interconnected with and installed into an M&E qualified paint booth was also exempt from retail sales tax under RCW 82.08.02565.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

Okimoto, A.L.J. – An automobile panel manufacturing company protests retail sales taxes assessed on a fire suppression system installed into a spray/bake paint booth that qualified for a machinery and equipment (M&E) sales tax exemption under RCW 82.08.02565. We grant the exemption.<sup>1</sup>

## ISSUE

Is a fire suppression system installed into a qualifying spray/bake paint booth exempt from retail sales tax under RCW 82.08.02565 and WAC 458-20-13601(Rule 13601)?

<sup>1</sup> Identifying details regarding the taxpayer and the assessment have been redacted pursuant to RCW 82.32.410.

## FINDINGS OF FACT

[Taxpayer] is an automobile panel manufacturing business located in . . . Washington. The Audit Division (Audit) of the Department of Revenue (Department) examined Taxpayer's books and records for the period of January 1, 2005, through December 31, 2008. Audit's examination resulted in additional taxes being assessed of \$. . . , and interest of \$. . . , for a total of \$. . . . Document No. . . . was issued in that amount on April 15, 2009. Taxpayer paid the assessment in full on April 9, 2009, and now petitions for a refund in the amount of \$. . . . The protested amount reflects the portion Taxpayer believes to be incorrectly taxed on the fire suppression component of the spray/bake paint booth.

### **Schedule 3: Use Tax/Deferred Sales Tax Due on Capital Asset Purchases**

In this schedule Audit assessed use/deferred sales tax on a fire suppression system installed into a spray/bake paint booth. Both Audit and Taxpayer agreed that the spray/bake paint booth qualified<sup>2</sup> for the retail sales tax exemption allowed by RCW 82.08.02565 and that issue is not before us. Taxpayer explained during the teleconference that the fire suppression equipment is normally installed by the same contractor that installs the paint booth. However, because Taxpayer was also having fire suppression equipment installed into the entire building and into some other equipment, the paint booth contractor allowed the other contractor to install the fire suppression equipment. The fire suppression system consists of a dozen sprinkler heads that are installed into the booth's 10 foot high ceiling and also into the flooring and connected via piping to the building's water supply. The fire suppression system is completely wired into and integrated with the paint booth's control panel. The fire suppression system must be installed and wired through the paint booth's control panel in order for the paint booth to function. In addition, the installation of a fire suppression system in the paint booth was required under the [local] building permit.

## ANALYSIS

RCW 82.08.02565<sup>3</sup> provides an M&E retail sales tax exemption:

- (1) The tax levied by RCW 82.08.020 shall not apply to sales to a manufacturer or processor for hire of machinery and equipment used directly in a manufacturing operation or research and development operation, to sales to a person engaged in testing for a

<sup>2</sup>Audit concluded that the spray/bake paint booth qualified for the exemption because it was an industrial fixture that was used directly in Taxpayer's automobile panel manufacturing operation. The spray/bake paint booth is a multifunctional 14' wide, 24' long and 10' high insulated metal enclosure that is equipped with one million BTU gas burners and 7.5 HP motor direct drive fans. The enclosure is also connected to an outside compressor that supplies air to paint sprayers for painting automotive panels. Once the panels are painted, the booth's fans move the heated air along the newly painted panels to draw off evaporating solvent and to cure the paint. This results in a faster and more even paint-curing process. The spray/bake paint booth functions are operated through a control panel mounted to the exterior of the spray/bake paint booth.

<sup>3</sup> RCW 82.12.02565 provides a corresponding use tax exemption.

manufacturer or processor for hire of machinery and equipment used directly in a testing operation, or to sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving the machinery and equipment.

Therefore, the M&E exemption has four distinct requirements:

1. The purchaser/user must be a “manufacturer” or “processor for hire”;
2. The purchased/used item must meet the definition of “machinery and equipment”; and
3. The item must be “used directly” . . .
4. in a “manufacturing operation or research and development operation.”

Det. No. 04-092, 24 WTD 092 (2004).

In determining what items qualify as exempt machinery and equipment under the law, we must follow several long-accepted general rules of statutory construction. Taxation is the rule; exemption is the exception. *Spokane County v. City of Spokane*, 169 Wash. 355, 13 P.2d 1084 (1932). Exemptions from a taxing statute are to be narrowly construed. *Budget Rent-A-Car, Inc. v. Dep't. of Revenue*, 81 Wn.2d 171, 500 P.2d 764 (1972), *Evergreen-Washelli Mem'l Park Co. v. Dep't. of Revenue*, 89 Wn.2d 660, 574 P.2d 735 (1978). . . .

In this case the disputed issue is whether the fire suppression system is machinery and equipment that is “used directly” and in a “manufacturing operation or research and development operation.”

Taxpayer first argues that the fire suppression system is exempt from retail sales tax because it is a component part of the qualifying spray/bake booth.

We agree with Taxpayer that components of qualifying machinery and equipment are exempt from retail sales tax under RCW 82.08.02565. In fact, Rule 13601(2) specifically provides:

(d) "**Machinery and equipment**" means **industrial fixtures**, devices, and support facilities, **and** tangible personal property that becomes an ingredient or **component thereof**, including repair parts and replacement parts. "Machinery and equipment" includes pollution control equipment installed and used in a qualifying operation to prevent air pollution, water pollution, or contamination that might otherwise result from the operation. "M&E" means "machinery and equipment."

(Bolding and underlining added.) In this case both Audit and Taxpayer agree that the paint booth qualifies for the M&E exemption under RCW 82.08.02565. Therefore, under Rule 13601 the fire suppression system would also qualify if it has been installed into and has become a component of the spray/bake booth. We conclude that it has. The fire suppression system is both attached to the ceiling of the exempt spray/bake booth, and also must be “installed and wired through the control panel in order for the equipment to function.”<sup>4</sup> The fire suppression

<sup>4</sup> E-mail from [vendor] to [Taxpayer] (June 24, 2009 . . .).

system is also integrated into the booth's control panel and is critical to the operation of the spraying equipment. "Without [the interconnected fire suppression system] the painting booth and prep station will not run."<sup>5</sup> In this context the fire suppression system is not merely additional safety equipment, but is actually a component part of the spray/bake booth. Therefore, we conclude that the fire suppression system meets the exemption requirements set out under RCW 82.08.02565 and WAC 458-20-13601.

. . . The fire suppression system is an integrated component part of the qualifying spray/bake booth which Audit has concluded is used directly in Taxpayer's qualifying manufacturing operation. We therefore, conclude that the fire suppression system is a component part of qualifying equipment "used directly" in a qualifying operation and is eligible for the M&E exemption.

. . . Rule 13601(8) disqualifies "safety equipment *not part of qualifying M&E.*" (Emphasis added). This is not the case in the current situation. The fire suppression system is an essential and necessary component of the spray/bake booth.

. . . Rule 13601(6) provides:

**What is not eligible for exemption.** In addition to items that are not eligible because they do not meet the used directly test or fail to overcome the majority use threshold, there are four categories of items that are statutorily excluded from eligibility. The following property is not eligible for the M&E exemption:

(Part (a), (b), and (c) not applicable and omitted)

(d) Building fixtures that are not integral to the manufacturing operation, testing operation, or research and development operations that are permanently affixed to and become a physical part of a building, such as utility systems for heating, ventilation, air conditioning, communications, plumbing, or electrical. Examples of nonqualifying fixtures are: Fire sprinklers, building electrical systems, or washroom fixtures. Fixtures that are integral to the manufacturing operation might be eligible, depending on whether the item meets the other requirements for eligibility, such as the used directly test.

When Rule 13601(6) is read, specifically looking to subpart (d), it should be clear that "fire sprinklers" are given as an example of non-qualifying fixtures if the fire sprinklers are *building fixtures, not integral to the manufacturing operation, [. . . that are permanently affixed to and a physical part of a building]*. (Emphasis added). In this case the fire sprinklers are a component part of the qualifying spray/bake booth. Thus, the fire sprinklers installed into the booth are eligible for the M&E exemption.

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<sup>5</sup> *Id.*

**DECISION AND DISPOSITION**

Taxpayer's petition for correction of assessment and refund is granted.

Dated this 30<sup>th</sup> day of June, 2010.