



# Excise Tax Advisory

Excise Tax Advisories are interpretive statements authorized by RCW 34.05.230.

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ETA 3123.2009

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## Manufacturers' Machinery and Equipment Exemption — Manufacturing Site

The Department has issued a series of excise tax advisories (ETAs) to address questions regarding the retail sales and use tax exemption provided by RCW 82.08.02565 and 82.12.02565, commonly referred to as the manufacturers' machinery and equipment exemption (M&E exemption). This ETA is issued to address the application of the M&E exemption to activities taking place away from the manufacturing site. Please refer to ETA 3117.2009 for a current list of the issues covered by this series.

In addition to the issues discussed in this ETA series, machinery and equipment must also meet the other requirements of the statutes to be eligible for the exemption. For example, some of the requirements include:

- Purchaser/User must be a manufacturer, processor for hire, or a tester for a manufacturer or processor for hire,
- Must purchase machinery or equipment (devices, industrial fixtures, support facilities, pollution control equipment),
- The machinery or equipment must be used directly in a manufacturing, research and development, or testing operation,
- The machinery or equipment must have a useful life of one year or more, and
- The machinery or equipment must be used more than 50% of the time on an eligible activity.

Therefore, readers are advised that RCW 82.08.02565, RCW 82.12.02565, and WAC 458-20-13601 should also be referenced when making determinations about taxability.

Questions have been raised regarding whether, and to what extent, the M&E exemption includes a requirement that qualifying activity take place at a manufacturing site.

The M&E statute provides an exemption from tax for machinery and equipment “used directly in the manufacturing operation.” The phrase “manufacturing operation” is defined as “the manufacturing of articles, substances, and commodities for sale as tangible personal property.” The M&E statute also describes the manufacturing operation in terms of a process, with a beginning and an end, taking place at a location. The statutory definition of “manufacturing operation” provides in part, “a manufacturing

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operation begins at the point where the raw materials enter the manufacturing site and ends at the point where the processed material leaves the manufacturing site.”

The definition of “testing operation” has similar language. The definition of “research and development operation” does not have any language regarding site.

Under the statute, machinery and equipment must be “used directly” in a manufacturing operation in order to be eligible for the exemption. There are eight used directly tests. They are:

- (1) Acts upon or interacts with an item of tangible personal property;
- (2) Conveys, transports, handles, or temporarily stores an item of tangible personal property at the manufacturing site or testing site;
- (3) Controls, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site;
- (4) Provides physical support for or access to tangible personal property;
- (5) Produces power for, or lubricates machinery and equipment;
- (6) Produces another item of tangible personal property for use in the manufacturing operation, testing operation, or research and development operation;
- (7) Places tangible personal property in the container, package, or wrapping in which the tangible personal property is normally sold or transported; or
- (8) Is integral to research and development as defined in RCW 82.63.010.

#### ***At the Site or Away from the Site***

If an activity comes under the “used directly” test of “[c]ontrols, guides, measures, verifies, aligns, regulates, or tests tangible personal property at the site or away from the site” then no part of the activity need take place at the site. The activity described above, meaning the controlling or guiding, and so forth of tangible personal property, must be performed within the scope of the “manufacturing operation.” The “manufacturing operation” begins with raw materials and ends with processed material. Therefore, an activity outside of this operation, such as design, does not qualify. See ETA 3122.2009 for a discussion of design.

All of the other “used directly” tests require that the machinery and equipment and the activity in question be located/Performed at a manufacturing site.

#### ***What is a Site***

A site is one or more immediately adjacent parcels of real property. The ownership status of the property is not relevant – a parcel can be owned, rented, or leased by the manufacturer or processor for hire. Adjacent parcels of real property separated only by a public road comprise a single “site.” The public road dividing the site is an incidental separation of what would otherwise be one site.

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