

Section 130.330 Manufacturing Machinery and Equipment**EMERGENCY**

- a) General provisions applicable to all types of machinery and equipment under this Section. *Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person.* [35 ILCS 120/2-5(14)] *The manufacturing and assembly machinery and equipment exemption includes machinery and equipment that replaces machinery and equipment in an existing manufacturing facility as well as machinery and equipment that are for use in an expanded or new manufacturing facility.* [35 ILCS 120/2-45] In certain cases, purchases of machinery and equipment by a lessor will be exempt even though that lessor does not itself employ the machinery and equipment in an exempt manner. Initially, the exemption was for purchases of conventional machinery and equipment used or consumed primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. The exemption has expanded over time to include not only conventional machinery and equipment used or consumed in a manufacturing or assembling process in a manufacturing facility (see subsection (c)) but also chemicals (see subsection (d)), computer software (see subsection (e)), machinery and equipment used primarily in graphic arts production (see subsection (g)), and production related tangible personal property (see subsection (h)). For purposes of this regulation, unless otherwise provided, all the types of tangible personal property that qualify for the exemption under this Section will be referred to as “machinery and equipment.” The following provisions apply to all items under this Section:
- 1) There may be instances where items of tangible personal property do not meet the definition of conventional “machinery and equipment” under subsection (c) but do meet the definition of “graphic arts production” in subsection (g) or “production related tangible personal property” in subsection (h) of this Section and so would qualify for the exemption.
 - 2) *The manufacturing machinery and equipment exemption is not subject to the sunset provisions contained in Section 2-45 of the Retailers' Occupation Tax Act.* [35 ILCS 120/2-45]
 - 3) All items considered machinery and equipment under this Section must be used primarily (over 50%) in manufacturing or assembling. Therefore, machinery that is used primarily in an exempt process and partially in a nonexempt manner would qualify

for exemption. However, the purchaser must be able to establish through adequate records that the machinery and equipment is used over 50% in an exempt manner in order to claim the exemption.

- 4) An item of machinery and equipment that initially is used primarily in manufacturing or assembling and having been so used for less than one-half of its useful life is converted to primarily nonexempt uses will become subject to tax at the time of the conversion, allowing for reasonable depreciation on the machinery and equipment.
- 5) The fact that particular machinery and equipment may be considered essential to the conduct of the business of manufacturing or assembling because its use is required by law or practical necessity does not, of itself, mean that machinery and equipment is used primarily in manufacturing or assembling.
- 6) Machinery and equipment used in the performance of a service, such as dry cleaning, is not used in the production of tangible personal property for wholesale or retail sale or lease and is thus taxable. However, a manufacturer or assembler who uses machinery and equipment to produce goods for wholesale or retail sale or lease by itself or another, or to perform assembly or fabricating work for a customer who retains the manufacturer or assembler only for its services, will not be liable for tax on the machinery and equipment it uses as long as the goods produced either for itself or another are destined for wholesale or retail sale or lease, rather than for use and consumption.
- 7) The exemption requires that the product produced as a result of the manufacturing or assembling process be tangible personal property for wholesale or retail sale or lease. Accordingly, a manufacturer or assembler who uses any significant portion of the output of its machinery and equipment, either for internal consumption or any other nonexempt use, or a lessor who leases otherwise exempt machinery and equipment to such a manufacturer or assembler, will not be eligible to claim the exemption on that machinery and equipment. No apportionment of production capacity between output for sale or lease and output for self-use will be permitted and no partial exemption for any item of machinery and equipment will be allowed. For example, the purchase of hot-mix asphalt machinery would be taxable if the majority of the asphalt produced

(over 50%) was used to fulfill the purchaser's own construction contracts and not sold at wholesale or retail.

b) Manufacturing and Assembling Processes Described

- 1) The manufacturing process is the production of any article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating or refining that changes some existing material or materials into a material with a different form, use or name. These changes must result from the process in question and be substantial and significant.
- 2) The assembling process is the production of an article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling that results in an article or material of a different form, use, or name.
- 3) The process or activity must be commonly regarded as manufacturing. To be so regarded, it must be thought of as manufacturing by the general public. Generally, the scale, scope and character of a process or operation will be considered to determine if the process or operation is commonly regarded as manufacturing. Manufacturing includes such activities as processing, fabricating and refining.
- 4) The use of machinery and equipment in any industrial, commercial or business activity that may be distinguished from manufacturing or assembling will not be an exempt use and the machinery and equipment will be subject to tax.
- 5) Manufacturing generally does not include extractive industrial activities. Logging and drilling for oil, gas, and water neither produce articles of tangible personal property nor effect any significant or substantial change in the form, use or name of the materials or resources upon which they operate. However, the extractive processes of mining or quarrying may constitute manufacturing. See *Nokomis Quarry Co. v. Department of Revenue*, 295 Ill. App. 3d 264, 692 N.E.2d 855, 860 (5th Dist. 1998) (holding that a calculated blasting method that is performed with specific desired results, which changes limestone deposits into materials with a different form, possessing new qualities or combinations, constitutes manufacturing). Blasting agents, high explosives, detonators, lead-in line

and blasting machines are examples of exempt tangible personal property that is often used in the extractive process of quarrying. Equipment used primarily to drill and load holes to place blasting material that fractures aggregate qualifies as manufacturing machinery and equipment. Dredges that are used primarily in a sand and gravel mining operation to pick up and sort materials from a riverbed also qualify for the exemption.

Equipment, such as crawler dozers, used primarily to move shot rock after blasting, and wheel loaders, used primarily to load the mined product into off-highway haulage trucks for transport to the crusher-sorter machine, will qualify for the exemption. In addition, wheel loaders used to transport the mined product to the crusher-sorter machine or onto a conveyor system will qualify for the exemption. Machinery and equipment used primarily in activities, such as crushing, washing, sizing and blending, will qualify for the exemption, if the process results in the assembling of an article of tangible personal property with a different form than the material extracted, which possesses new qualities or combinations. Other types of mining and quarrying equipment may be exempt under this subsection (b)(5) if used in qualifying activities.

- 6) Until July 1, 2017, the printing process is not commonly regarded as manufacturing. Therefore, machinery and equipment used in any printing application will not qualify for the exemption. This includes graphic arts, newspapers, or books, as well as other industrial or commercial applications. Beginning July 1, 2017, the exemption includes machinery and equipment used in graphic arts production. See subsection (g).
- 7) Agricultural, horticultural and related, similar or comparable activities, including commercial fishing, beekeeping, production of seedlings or seed corn, and the development of hybrid seeds, plants or shoots, are not manufacturing or assembling and, accordingly, machinery and equipment used in such activities is subject to tax. (However, see Section 130.305 for the Farm Machinery and Equipment Exemption.)
- 8) The preparation of food and beverages by restaurants, food service establishments, and other retailers is not manufacturing.
- 9) Effective September 1, 1988, manufacturing includes photoprocessing if the products of photoprocessing are sold. Machinery and equipment that would qualify for exemption includes, but is not limited to, developers, dryers, enlargers, mounting machines, roll film splicers, film developing image makers, disc film opening and spindling devices, film indexers, photographic paper exposure equipment, photographic paper developing machines, densitometers, print inspection devices, photo print/negative cut

assembly stations, film sleeve insertion machines, negative image producers, film coating equipment, photo transparency mounters, processor rack sanitizers, photo print embossers, photo print mounting presses, graphic slide generators, chemical mixing equipment, paper exposure positioning, and holding devices. Cameras and equipment used to take pictures or expose film are not eligible, as the photoprocessing begins after the film is exposed. Retail/net price calculation equipment and chemical reclamation equipment are not considered to be manufacturing machinery and equipment.

- c) Machinery and Equipment. This subsection (c) describes “conventional” machinery and equipment that qualify for the exemption as it was originally enacted. Qualifying items that fall outside this definition of conventional machinery and equipment are described more fully in other subsections of this regulation.
- 1) *The exemption under this subsection (c) applies to machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. The manufacturing and assembly machinery and equipment exemption also includes machinery and equipment that replaces machinery and equipment in an existing manufacturing facility as well as machinery and equipment that are for use in an expanded or new manufacturing facility. The machinery and equipment exemption also includes machinery and equipment used in the general maintenance or repair of exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment.*
 - 2) *Equipment includes an independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer’s computer assisted design, computer assisted manufacturing (CAD/CAM) system; any subunit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns, and molds; and any parts that require periodic replacement in the course of normal operation. [Section 2-45 of the Act]*
 - 3) By way of illustration and not limitation, machinery and equipment used primarily in the following activities will generally be considered exempt:
 - A) The use of machinery and equipment to effect a direct and immediate physical change upon the tangible personal property to be sold

- B) The use of machinery and equipment to guide or measure a direct and immediate physical change upon the tangible personal property to be sold, provided this function is an integral and essential part of tuning, verifying, or aligning the component parts of such property;
 - C) The use of machinery and equipment to inspect, test or measure the tangible personal property to be sold where the function is an integral part of the production flow;
 - D) The use of machinery and equipment to convey, handle, or transport the tangible personal property to be sold within production stations on the production line or directly between the production stations or buildings within the same plant;
 - E) The use of machinery and equipment to place the tangible personal property to be sold into the container, package, or wrapping in which this property is normally sold when the machinery and equipment is used as a part of an integrated manufacturing process;
 - F) The production or processing of food, including the use of baking equipment such as ovens to bake bread or other bakery items, whether that baking is performed by a central bakery or a retail grocery store;
 - G) The use of machinery and equipment such as buffers, builders, or vulcanizing equipment to retread tires, whether or not the tire casing is provided by the purchaser.
- 4) By way of illustration and not limitation, the machinery and equipment used primarily in the following activities will generally not be considered to be exempt:
- A) The use of machinery and equipment to transport work in process, or semifinished goods, between plants;
 - B) The use of machinery or equipment in managerial, sales, or other nonproduction, nonoperational activities including disposal of waste, scrap or residue, production scheduling, work routing, purchasing, receiving, accounting, fiscal management, general communications, plant security, sales, marketing, product exhibition and promotion, or personnel recruitment, selection or training;

- C) The use of machinery and equipment in the preparation of food and beverages by a retailer for retail sale, i.e., restaurants, vending machines, food service establishments;
 - D) The use of machinery and equipment used in the last step of the retail sale. Examples are embroidery or monogramming machines used by tee-shirt retailers or sewing machines used to hem garments sold by a clothing store.
- d) *The exemption includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for sale or lease. Effective July 1, 2019, chemicals that do not make a direct and immediate change or act as a catalyst may qualify if they are production related. [35 ILCS 120/2-45 of the Act] The following examples are illustrative:*
- 1) Example 1. A chemical acid is used to etch copper off the surface of a printed circuit board during the manufacturing process. The acid causes a direct and immediate change upon the product. The acid qualifies for the exemption.
 - 2) Example 2. An aluminum oxide catalyst is used in a catalytic cracking process to refine heavy gas oil into gasoline. In this process, large molecules of gas oil or feed are broken up into smaller molecules. After the catalyst is injected into the feed and used in the cracking process, it is drawn off and reused in subsequent manufacturing processes. The catalyst qualifies for the exemption.
- e) *The exemption includes computer software used to operate exempt machinery and equipment used in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease. [35 ILCS 120/2-25]*
- f) The exemption includes the sale of materials to a purchaser who manufactures the materials into an exempted type of machinery and equipment or tools that the purchaser uses in the manufacturing of tangible personal property or leases to a manufacturer of tangible personal property. However, the purchaser must maintain adequate records clearly demonstrating the incorporation of these materials into exempt machinery and equipment.
- g) Beginning July 1, 2017, the manufacturing machinery and equipment exemption includes machinery and equipment used primarily in graphic arts production. *"Graphic arts production" means the production of tangible personal property for wholesale or retail sale or lease by means of printing, including ink jet printing, by one or more of the processes described in Groups 323110 through 323122 of*

Subsector 323, Groups 511110 through 511199 of Subsector 511, and Group 512230 of Subsector 512 of the North American Industry Classification System (NAICS) published by the U.S. Office of Management and Budget, 1997 edition. Graphic arts production does not include the transfer of images onto paper or other tangible personal property by means of photocopying or final printed products in electronic or audio form, including the production of software or audiobooks. Persons engaged primarily in the business of printing or publishing newspapers or magazines that qualify as newsprint and ink, by one or more of the processes described in Groups 511110 through 511199 of subsector 511 of the NAICS published by the U.S. Office of Management and Budget, 1997 edition, are deemed to be engaged in graphic arts production. [35 ILCS 120/2-30]

- 1) The manufacturing machinery and equipment exemption applies to qualifying machinery and equipment used in graphic arts production processes, as those processes are described in the NAICS and includes repair and replacement parts, both new and used, and including equipment that is manufactured on special order to be used primarily in graphic arts production.
- 2) Manufacturing includes printing by methods of engraving, letterpress, lithography, gravure, flexography, screen, quick and digital printing. It also includes the printing of manifold business forms, blankbooks, looseleaf binders, books, periodicals and newspapers. Included in graphic arts production are prepress services described in Subsector 323122 of the NAICS (e.g., the creation and preparation of negative or positive film from which plates are produced, plate production, cylinder engraving, typesetting and imagesetting). Also included are trade binding and related printing support activities set forth in Subsector 323121 of the NAICS (e.g., tradebinding, sample mounting and postpress services, such as book or paper bronzing, edging, embossing, folding, gilding, gluing, die cutting, finishing, tabbing and indexing).
- 3) By way of illustration and not limitation, the following activities will generally be considered graphic arts production:
 - A) Digital Printing and Quick Printing. This means the printing of graphical text or images by a process utilizing digital technology. It also includes the printing of what is commonly known as "digital photography" (e.g., use of a qualifying integrated computer and printer system to print a digital image). The exemption extends only to machinery and equipment, including repair and replacement parts, used in the act of production. Accordingly, no other type or kind of tangible personal property will qualify for the

exemption, even though it may be used primarily in the graphic arts business.

- B) Prepress or Preliminary Processes. Prepress or preliminary processes include the steps required to transform an original into a state that is ready for reproduction by printing. Prepress or preliminary processes include typesetting, film production, color separation, final photocomposition (e.g., image assembly and imposition (stripping)) and platemaking. Prepress or preliminary processes include the manipulation of images or text in preparation for printing for the purpose of conforming those images to the specific requirements of the printing process being utilized. For example, the images must be conformed for a specific signature layout and formatted to a specific paper size. In addition, colors must be calibrated to the specific type of paper or printing process utilized, so that they conform to customer specifications. Prepress or preliminary processes do not, however, include the creation or artistic enhancement of images that will later be reproduced in printed form by a graphic arts process. For example, the creation of an advertisement pursuant to customer direction, or enhancement of a photograph received from a customer by adding a border, text or rearranging the placement of images in the photograph, is not the performance of a qualifying prepress or preliminary process. Prepress or preliminary processes can be performed at the printing facility, a separate prepress or preliminary facility, the customer's location, or other location. The following are examples of equipment used in qualifying prepress or preliminary activities:
- i) Large scale, fixed-position cameras used to photograph two-dimensional copy to produce negatives or positives used in the production of plates; film processors; scanners; impositioners; RIP (raster image processor) equipment; proofing equipment; imagesetters, plate processors, helioklischographs and computer-to-plate and computer-to-press equipment.
 - ii) Computers that qualify include computers used primarily to receive, store and manipulate images to conform them to the requirements of a specific printing process that will later be performed. Computers used in connection with what is commonly referred to as "digital photography" will qualify if used primarily to format the graphic image that

- will be printed (e.g., used to format the size and layout of images to be printed). If the computers are primarily used, however, to apply background colors, borders or other artistic enhancements, or to view and select particular digital images to be printed, they will not qualify for the exemption.
- iii) Digital cameras do not qualify if they are used primarily to create an original image that will later be reproduced by a graphic arts process.
 - iv) Servers used primarily to transfer images and text to qualifying equipment qualify, but do not qualify if used primarily in a nonexempt activity (for example, servers used to maintain an in-house email system)
 - v) Scanners used primarily to input previously created images or text that will be reproduced by a graphic arts process qualify for the exemption.
- C) Transfer of Images or Text from Computers, Plates, Cylinders or Blankets to Paper or Other Stock to be Printed. This process begins when paper is introduced on the press. Examples of qualifying equipment used in this activity include printing plates, printing presses, blankets and rollers, automatic blanket washers, scorers and dies, folders, punchers, stackers, strappers used in the pressroom for signatures, dryers, chillers and cooling towers. Laser or ink jet printers used to print on paper or other stock are also included in this exemption.
- i) Equipment used primarily to handle or convey printed materials between production stations in an integrated on-line graphic arts process is included in the exemption (e.g., a forklift or bindery cart will qualify for the exemption if it is primarily used to convey book covers that have been printed and cut to binding and finishing equipment).
 - ii) Computer equipment used primarily to operate exempt graphic arts equipment also qualifies for the exemption.
 - iii) Equipment, such as transformers, used primarily to provide power to qualifying printing presses or bindery lines, qualifies for the exemption. Similarly, heating and cooling machinery and equipment used to produce an environment

necessary for the production of printed material qualifies for the exemption. For example, humidity-control equipment used to reduce static during the printing process qualifies for the exemption.

- D) Activities Involving the Binding, Collating or Finishing of the Graphic Arts Product. Equipment used in these activities includes, for instance, binders, packers, gatherers, joggers, trimmers, selectronic equipment, blow-in card feeders, inserters, stitchers, gluers, spiral binders, addressing machines, labelers and ink-jet printers.
- i) Machinery and equipment used to convey materials to packaging areas after the graphic arts product has been printed, bound and finished qualifies for the exemption. That equipment includes, for instance, conveyor systems, hoists or other conveyance mechanisms used to direct the final printed product into packaging areas.
 - ii) Machinery and equipment used to package materials after the graphic arts product has been printed, bound and finished qualifies for the exemption. Packaging equipment includes, for instance, cartoning systems, palletizers, stretch wrappers, strappers, shrink tunnels and similar equipment.
- 4) By way of illustration and not limitation, machinery and equipment used primarily in the following activities will generally not be considered exempt:
- A) The use of machinery and equipment primarily to produce graphic arts items not for wholesale or retail sale or lease (e.g., items produced for internal consumption or items produced and distributed without charge).
 - B) The use of machinery and equipment (e.g., fork lifts, roll clamps and roll grabbers) to convey raw materials to the press.
 - C) The use of machinery and equipment to convey materials to final storage or shipping areas. That equipment includes, for instance, fork lifts used primarily to place the packaged printed product into final storage or shipping areas.
 - D) The use of machinery and equipment to gather information, track jobs or perform data-related functions prior to a qualifying prepress activity (e.g., computers used primarily to edit or create

- text, data or other copy). That equipment includes items such as inventory tracking devices and bar-code readers.
- E) The use of machinery and equipment used primarily to photocopy printed matter. A copier that is capable of printing images or text transmitted to it in digital form may qualify if used primarily in that manner. However, a copier that produces photocopies by means of xerographic technology is subject to tax.
 - F) The use of machinery and equipment in managerial, sales or other nonproduction, nonoperational activities, including production scheduling, purchasing, receiving, accounting, physical management, general communications, plant security, marketing, or personnel recruitment, selection or training. Waste disposal equipment (e.g., equipment used to contain and recapture paper dust) does not qualify for the exemption.
 - G) The use of machinery and equipment for general ventilation, heating, cooling, climate control or general illumination, except when the machinery and equipment is used to produce an environment necessary for the production of printed material.
- 5) Machinery and equipment that initially is used primarily in graphic arts production and having been so used for less than one-half of its useful life and is converted to primarily nonexempt uses will become subject to the tax at the time of the conversion, allowing for reasonable depreciation on the item of machinery and equipment.
- h) *Beginning on July 1, 2019, the manufacturing and assembling machinery and equipment exemption includes production related tangible personal property.*
- 1) Production related tangible personal property means all tangible personal property used or consumed in a production related process by a manufacturer in a manufacturing facility in which a manufacturing process takes place or by a graphic arts producer in graphic arts production. Production related tangible personal property also means all tangible personal property that is used or consumed in research and development regardless of use within or without a manufacturing or graphic arts production facility. [35 ILCS 105/3-85]
 - 2) By way of illustration and not limitation, the following uses of tangible personal property by manufacturers, including graphic arts producers, will be considered production related:

- A) Tangible personal property purchased by a manufacturer for incorporation into real estate within a manufacturing facility for use in a production related process; or tangible personal property purchased by a construction contractor for incorporation into real estate within a manufacturing facility for use in a production related process.
 - B) Supplies and consumables used in a manufacturing process in a manufacturing facility, including fuels, coolants, solvents, oils, lubricants, and adhesives.
 - C) Hand tools, protective apparel, and fire and safety equipment used or consumed within a manufacturing facility.
 - D) Tangible personal property used or consumed in a manufacturing facility for purposes of pre-production and post-production material handling, receiving, quality control, inventory control, storage, staging, and packing for shipping or transportation.
 - E) Fuel used in a ready-mix cement truck to rotate the mixing drum in order to manufacture concrete or cement. However, only the amount of fuel used to rotate the drum will qualify. The amount of fuel used or consumed in transportation of the truck will not qualify as production related tangible personal property. The amount of fuel used in a qualifying manner to rotate the drum may be stated as a percentage of the entire amount of fuel used or consumed by the ready-mix truck.
- 3) By way of illustration and not limitation, the following uses of tangible personal property by manufacturers, including graphic arts producers, will not be considered production related:
- A) The use of trucks, trailers and motor vehicles that are required to be titled or registered pursuant to the Illinois Motor Vehicle Code [625 ILCS 5/], and aircraft or watercraft required to be registered with an agency of State or federal government.
 - B) The use of office supplies, computers, desks, copiers and equipment for sales, purchasing, accounting, fiscal management, marketing and personnel recruitment or selection activities, even if the use takes place within a manufacturing or graphic arts production facility.
 - C) The use or consumption of tangible personal property for aesthetic or decorative purposes, including landscaping and artwork.

i) Sales to Lessors

- 1) For the exemption to apply, the purchaser need not itself employ the exempt machinery and equipment in manufacturing. If the purchaser leases that machinery and equipment to a lessee-manufacturer who uses it in an exempt manner, the sale to the purchaser-lessor will be exempt from tax. A vendor may exclude these sales from its taxable gross receipts provided the purchaser-lessor provides the vendor with a properly completed exemption certificate and this Section would support an exemption if the sale were made directly to the lessee-manufacturer.
- 2) If a purchaser-lessor subsequently leases the machinery and equipment to a lessee who does not use it in a manner that would qualify directly for the exemption, the purchaser-lessor will become liable for the tax, allowing for reasonable depreciation on the machinery and equipment.

j) Exemption Certificates

- 1) A vendor that makes sales of machinery and equipment to a manufacturer or lessor of a manufacturer incurs Retailers' Occupation Tax on that sale and must collect Use Tax unless the purchaser certifies the exempt nature of the purchase to the vendor as set out in this subsection (j).
- 2) *The user of qualifying machinery and equipment shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction and submit the certificate to the vendor. If the user has an active registration or resale number, that number may be given in lieu of the prescribed certificate. [35 ILCS 120/2-45] Certificates shall be retained by the vendor and shall be made available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.*
- 3) If a manufacturer or lessor purchases at retail from a vendor who is not registered to collect Illinois Use Tax, the purchaser must prepare the completed exemption certificate and retain it in its files. The exemption certificate shall be available to the Department for inspection or audit.
- 4) In the case of a vendor who makes sales of qualifying machinery and equipment to a contractor who will incorporate it into real estate so that the contractor, itself, would be the taxable user (see Sections 130.1940 and 130.2075 of this Part), the purchasing contractor should provide the vendor with a certification that the machinery and equipment will be transferred to a manufacturer as manufacturing machinery and equipment

in the performance of a construction contract for the manufacturer. The purchasing contractor should include the manufacturer's name and registration number on the certification when claiming the exemption.

- k) *The exemption does not include machinery and equipment used in the generation of electricity for wholesale or retail sale; the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. [35 ILCS 120/2-45] (The provisions set forth in this subsection (k) were established by Public Act 98-0583, which states that the provisions are declaratory of existing law as to the meaning and scope of this exemption.)*

- l) Opinions and Rulings

Informal ruling and opinion letters issued by the Department regarding the coverage and applicability of this exemption to specific devices will be maintained by the Department in Springfield. They will be available for public inspection and may be copied or reproduced at taxpayer's expense. Trade secrets or other confidential information in these letters will be deleted prior to release to public access files.

(Source: Amended by Emergency Rulemaking at 43 Ill. Reg. _____, effective _____, for a maximum of 150 days)