



Private Letter Rulings

“Private letter rulings” are written statements issued to a taxpayer by the department, that interpret Wisconsin tax laws based on the taxpayer’s specific set of facts. Any taxpayer may rely upon the ruling to the extent the facts are the same as those in the ruling.

The ruling number is interpreted as follows: The “W” is for “Wisconsin”; the first four digits are the year and week the ruling becomes available for publication (80 days after it is issued to the taxpayer); the last three digits are the number in the series of rulings issued that year. The date is the date the ruling was issued.

Certain information that could identify the taxpayer has been deleted. Additional information is available in Wisconsin Publication 111, “How to Get a Private Letter Ruling From the Wisconsin Department of Revenue.”

The following private letter ruling is included:

Sales and Use Taxes

Exemptions - manufacturing equipment
W 0301001 (p. 39)

✱ W 0301001 ✱

October 16, 2002

Type Tax: Sales and Use Taxes

Issue: Exemptions - manufacturing equipment

Statutes: Section 77.54(6)(a), Wis. Stats. (1999-00)

This letter responds to your request for a private letter ruling.

Facts, as stated in your request:

XYZ Company (“XYZ”) is a Wisconsin manufacturer of various plastic molded products. XYZ manufactures a cosmetic merchandise system in Wisconsin for sale to Customer A, a large regional retailer. The merchandise system is made up of components that hold products and create the shelving that attaches to universal store brackets. Customer A resells the merchandise systems to cosmetics vendors, who are responsible for the mer-

chandise systems used to display products in Customer A’s stores.

XYZ manufactures permanent steel tooling in Wisconsin which in-turn is used by XYZ to manufacture the merchandise system. XYZ sells the steel tooling to Customer A, recording the transaction as a sale on its books. XYZ does not record any fixed assets related to the tooling on its books. Customer A receives separate invoices from XYZ for the tooling and the merchandise systems. Customer A then allows XYZ to use the tooling, at no cost to XYZ, to manufacture the merchandise systems. Customer A retains ownership of the tooling so that it may provide the tooling to another manufacturer if it desires to change manufacturers of the merchandise systems.

Request:

Is Customer A allowed to purchase exempt from Wisconsin sales or use tax the tooling from XYZ which Customer A in-turn allows XYZ to use exclusively and directly in manufacturing the merchandise systems?

Ruling:

Yes, provided Customer A gives a properly completed exemption certificate to XYZ. The exemption in sec. 77.54(6)(a), Wis. Stats. (1999-00), does not require the processing equipment to be **purchased** by the manufacturer, but rather **used** by the manufacturer. XYZ is using the tooling it sold to Customer A in manufacturing, in the same manner as if XYZ had purchased the tooling for its use in manufacturing the merchandise systems.

In the event the tooling is not used exclusively and directly in manufacturing (e.g., XYZ or Customer A also uses the tooling for repairs or maintenance purposes), or if the tooling is later converted to a use other than exclusively and directly in manufacturing, the exemption under sec. 77.54(6)(a), Wis. Stats. (1999-00), no longer applies.

Analysis:

Section 77.52(1), Wis. Stats. (1999-00), imposes the Wisconsin sales or use tax on the sale of tangible personal property by retailers in Wisconsin.

Section 77.51(14), Wis. Stats. (1999-00), provides that a "retail sale" includes the transfer of ownership, title, possession, or enjoyment of tangible personal property for use or consumption, but not for resale.

Section 77.54(6)(a), Wis. Stats. (1999-00), provides an exemption from the tax for "Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment."

Section 77.57, Wis. Stats. (1999-00), provides that if a purchaser gives an exemption certificate to a seller for property to be used in an exempt manner, and later uses

the property in a manner other than the exempt purpose, the purchaser owes the sales tax on either the original sales price of the property, or the fair market value of the property if the taxable use first occurs more than 6 months after the initial purchase of the property, whichever is less.

Because XYZ is using the tooling it sold to Customer A exclusively and directly in manufacturing, the purchase of the tooling by Customer A from XYZ qualifies for the exemption in sec. 77.54(6)(a), Wis. Stats. (1999-00). The exemption does not require the processing equipment to be **purchased** by the manufacturer, but rather **used** by the manufacturer. [↗](#)