

October 19, 2015

Memorandum

From: Mark A. Engel, Esq.
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To: Rob Brundrett
The Ohio Manufacturers' Association

Subject: CAT exemption for manufacturer, supplier, or distributor of beauty, health, personal care, or aromatic products

As originally enacted, the exclusion related to receipts from transactions between qualified integrated supply chain vendors, and it related to equipment that essentially touched the product incorporated into the finished goods, as well as work in process inventory.

This amendment broadens the exclusion, first, by including a retailer within the group of persons who qualify for the exclusion. That means that receipts from transfers to retailers will be excluded from the CAT; as enacted, those receipts are taxable receipts. See division (F)(2)(jj)(i), (iii), page 20. It also includes anybody that may be included in the retailer's consolidated elected or combined taxpayer group. See division (F)(2)(jj)(vii), page 21.

A second way the exclusion is broadened is that parts used to "hold, contain, package, or dispense" qualified products no longer are limited to qualified products that are incorporated into the item sold at retail. See division (F)(2)(jj)(ii)(I), page 20. I'm not sure the extent of this broadening, but since the items no longer have to be incorporated into the final product, that potentially opens up a lot of things to the exclusion.

Third, the amendment brings finished goods within the scope of "qualified property" the receipts from which are excluded from the CAT. See division (F)(2)(jj)(ii)(III), page 20.

By including the retailer within the scope of the exemption, the "integrated supply chain" is expanded to include essentially any service provider to the retailer, such as an advertiser or other business consultant. See the definition of integrated supply chain in section (F)(2)(jj)(v).

Bottom line is that this provision picks a winner and gives it a huge advantage over its competition: The CAT no longer applies to intermediate transactions, thereby lowering its prices. There is no reason this model couldn't, or shouldn't, be implemented for any other nonintegrated manufacturing operation. There goes the CAT.