



June 28, 2017

VIA Electronic Mail

Ohio Department of Taxation
ATTN: Laura Stanley
30 E. Broad St.
Columbus, OH 43216

Re: **OMA Follow Up Comments to Manufacturing Rule; OAC 5703-9-21: Ohio Department of Taxation Draft Revisions**

Dear Ms. Stanley:

As a follow-up to the meeting held at the Ohio Department of Taxation (ODT) on May 31, 2017, The Ohio Manufacturers' Association (OMA) is hereby providing ODT with written follow up comments to Ohio's Manufacturing Sales and Use tax rule 5703-9-21.

The OMA is dedicated to protecting and growing manufacturing in Ohio. The OMA represents over 1,400 manufacturers throughout Ohio. The OMA supports a reasonable and transparent state tax system that encourages investment and growth.

The OMA appreciates the opportunity to offer additional comments to the manufacturing sales and use tax exemption rules OAC 5703-9-21. These rules are important and valuable to Ohio's manufacturing competitiveness.

The OMA remains concerned with provisions included the draft proposal and are outlined as follows.

5703-9-21(B)(1) – Commitment of materials to the manufacturing process and initial storage.

1. Often when raw materials are received at a facility, they are unloaded, then screened or processed, (e.g., by magnets, to remove undesirable material such as wood or metals). These raw materials can also be mixed or blended before they are transported to "storage."

The current rule states that commitment starts at the earlier of (i) the point where handling from initial storage ceases, or (ii) the point where the materials are mixed, measured, blended, heated, cleaned, or otherwise treated or prepared for manufacturing.

The above language is often ignored by auditors, who often claim this activity is “preliminary” action. Language should be added to the rule to explicitly consider such sorting and mixing activities as manufacturing prior to any “storage” declaration.

2. The rule should also state that equipment used to put or load raw materials into the first stage of manufacturing should be considered exempt for sales/use tax purposes because these pieces of equipment are necessary to complete the first step of the manufacturing process.
3. Equipment that is used to agitate materials to prevent products from becoming unsalable or unusable must be recognized as exempt from sales and use tax. These types of equipment are necessary to the manufacturing process. In many instances, without these types of processes, manufactured goods are ruined and unable to be sold or operate as designed. The rule should state that these types are part of the manufacturing process and are exempt.

5703-9-21 – Consistency in draft rules

1. The rule refers to related exemptions in some places and ignores related exemptions in other portions of the rule. For example, the reference to the R&D exemption is technically outside the manufacturing exemption, but it is related. Other related exemptions such as packaging or pollution control, are not mentioned. The rule should either include the mention of these exemptions or ignore all related exemptions. The current rule occupies a type of middle ground without offering much guidance in either direction.

The OMA appreciates the opportunity to comment on this draft to Rule 5703-9-21. We look forward to working with ODT as the rule review moves forward. If ODT has any questions regarding the foregoing, please do not hesitate to contact me or OMA’s tax counsel, Mark Engel at Bricker & Eckler LLP (513-870-6565).

Sincerely,



Rob Brundrett
Director, Public Policy Services

CC: Matt Chafin