



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JUNE 7, 2011

## Sales and Use Tax Exemption for Qualifying Manufacturing Machinery and Equipment Clarified

### Background

Under current law, manufacturers and processors for hire are exempt from sales and use tax on machinery and equipment used directly in a manufacturing operation. (See RCW 82.08.02565 and 82.12.02565.) This exemption is commonly referred to as the “M&E exemption.” The M&E exemption was originally enacted by the Legislature in 1995 for the purpose of encouraging growth and development of the state’s private sector manufacturing industry.

### 2011 Legislation

House Bill (HB) 1347 (Chapter 23, Laws of 2011) clarifies that for the purposes of the M&E exemption:

- State agencies are not manufacturers,
- Public service businesses (i.e. businesses subject to the state public utility tax) are generally not manufacturers,
- Activities taxed under the state public utility tax are not manufacturing, and
- Printing newspapers or other materials is manufacturing.

A taxpayer must report income under one of the *Manufacturing or Processing for hire* B&O tax classifications in order to qualify for the M&E exemption. (Refer to our online Manufacturing Industry guide.) The exemption also applies to businesses that would otherwise be taxed under these classifications if such activities were conducted in this state or if not for an exemption or deduction.

### Effective date

HB 1347 took effect April 11, 2011. However, the amendments to the M&E exemption apply retroactively to any tax period open for assessment or refund of taxes.

### Definitions

For purposes of the M&E exemption:

“Manufacturing” means only those activities that come within the definition of “to manufacture” in RCW 82.04.120 and are taxed as manufacturing or processing for hire under 82.04 RCW, or would be taxed as such if such activity were conducted in this state or if not for an exemption or deduction. “Manufacturing” also includes printing newspapers or other materials. An activity is not taxed as manufacturing or processing for hire under chapter 82.04 RCW if the activity is within the purview of chapter 82.16 RCW.

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“Manufacturer” means a person that qualifies as a manufacturer under RCW 82.04.110. “Manufacturer” also includes printers of newspapers or other materials.

**Wastewater transfer and treatment facilities**

Taxpayers operating wastewater treatment facilities are subject to the public utility tax on their water distribution activities and also the business and occupation tax under the service and other activities classification for wastewater transfer and treatment activities. Consequently, machinery and equipment used in these activities by wastewater treatment facilities is not eligible for the M&E exemption.

However, a wastewater treatment facility may also produce biosolids for sale. HB 1347 provides that the production of Class A or exceptional quality biosolids by a wastewater treatment facility is considered to be a manufacturing activity. The production of Class B biosolids is not considered a manufacturing activity. Consequently, a wastewater treatment facility may qualify for the M&E exemption for machinery and equipment used in the production of Class A or exceptional quality biosolids for sale if the requirements of the exemption statute are met. One of the requirements is that the machinery and equipment must meet the majority use threshold as described in WAC 458-20-13601(9).

**For more information**

Contact the Department’s Telephone Information Center at 800-647-7706. You may also refer to our Manufacturing Industry Tax Guide and WAC 458-20-13601.