

Colorado Department of Revenue, Taxpayer Service Division

FYI Sales 69

Sales/Use Tax Exemption for Machinery and Machine Tools Used in Mining or Oil and Gas Operations in an Enterprise Zone

(Revised 11/00)

GENERAL INFORMATION

For businesses in an enterprise zone, the purchase of machinery and machine tools used in certain mining or oil and gas operations is exempt from sales and use tax. This exemption is effective for purchases made after June 8, 1991.

For purposes of this exemption, the definition of manufacturing [§39-26-114 (11)(c) C.R.S.] has been expanded to include "mining," as follows:

"refining, blasting, exploring, mining and mined land reclamation, quarrying for, processing and beneficiation, or otherwise extracting from the earth or from waste or stockpiles or from pits or banks any natural resource." [§39-30-106(1)(b) C.R.S.]

To qualify for this exemption, the machine, tool or part must be used directly in the mining process. Using a machine in the mine is not sufficient evidence by itself of exemption.

QUALIFICATIONS FOR EXEMPTION

The exemption is for machinery or machine tools, parts thereof, or material for the construction or repair of machinery or machine tools. The exemption applies to state tax and some state- collected city and county taxes. It does not apply to RTD/CD/FD special district taxes. Home rule jurisdictions make their own sales and use tax rules and must be contacted directly for information. For a list of local sales tax rates and exemptions, request [Colorado Sales/Use Tax Rates](#), DRP 1002.

To qualify, property must meet **all** of the following criteria:

1. **The machine must be used exclusively within the enterprise zone for mining purposes.** If the property is used outside the enterprise zone, it does not qualify.
2. The machine must meet the qualifications for the federal investment tax credit (ITC), as was provided by section 38 of the "Internal Revenue Code of 1954" as amended. This includes, but is not limited to, a minimum three-year life for the

machine, machine tool or part, and an annual total cap of \$150,000 for all used machine purchases (this cap applies to the original purchase, not subsequent repairs). This section also excludes buildings and structural components. There is an exception to the section 38 requirements for purposes of this exemption: the exempt equipment may be expensed, under Internal Revenue Code 179, or capitalized.

3. The machine must act upon and have a positive effect on the mined material or be a machine or process unique to mining. Mining begins with the process of removing ore, or overlay preventing access to ore, from in-place locations and continues as long as the desired material is steadily involved in the steps of manufacturing, refining or beneficiation. Processes working exclusively with waste after the desired materials are removed will qualify only if mined land reclamation is involved.
4. The invoice or purchase order per piece of equipment must be at least \$500.

For oil and gas operations: Refining is exempt under the definition of manufacturing found in §39-26-114(11)(c) C.R.S. The machines in a refinery that are necessary to add value or protect the value of the products are exempt. The associated pipes, holding tanks, structures, electrical work and other non-machines are not exempt. The mining exemption stated under the "general information" section, page 1, broadens the exemption for oil and gas operations only within enterprise zones to include machinery, machine tools and parts that are directly and exclusively used in exploring and extraction.

EXAMPLES OF EXEMPT AND NONEXEMPT MACHINES

In general, any machine that facilitates removing the mined article from the ground is exempt.

- Trucks used to carry ore from the mine site to a crusher would be exempt. Trucks used to carry ore to a storage area awaiting shipping would not be exempt. A truck used in both operations would fail the exclusivity test and would not be exempt.
- Repair parts for an exempt truck would be exempt only if the parts meet all other requirements, including the ITC qualification of a three-year life.
- Safety equipment required by state, federal or other government agencies or union contracts is exempt only if it meets all other requirements. Examples of non-exempt safety equipment would include ventilation units, machines to move miners in and out of the mine, gas detectors and fire suppression units.
- Tools used in the repair of machines are taxable. Machines used in maintenance are taxable. Repair and maintenance tools and machinery are not directly a part of the mining process.

Blasting and exploration are exempt only to the extent that the machines used otherwise qualify. Trucks built and predominantly used for hauling explosives would be exempt.

- Machines to install shoring are exempt, but the shoring itself is taxable. Roof bolts are taxable, but the roof bolter is exempt. Bolts and shoring are not integral parts of the mining machinery itself.
- Monitoring devices directly controlling mining machines are exempt. Monitoring devices that merely give an alarm are not.
- Downhole pumps, sucker rods, etc. used to extract oil or gas would be exempt. The pipeline used to carry the oil or gas would be taxable.

HOW TO CLAIM EXEMPTION

Complete the ["Sales Tax Exemption on Purchases of Machinery and Machine Tools"](#) (DR 1191) form, a copy of which is included in this FYI. This form may be photocopied for future use. An authorized official of the company must sign the form, and copies of the form must be filed with the seller of the machinery and with the Department of Revenue. If you have questions on claiming this exemption, call the Business Tax Accounting Section, (303) 866-3804.