Colorado Department of Revenue
Taxpayer Service Division
11/10

# FYI Sales 73
## Cleanroom Equipment Exemption

**GENERAL INFORMATION**

Purchases made on or after July 1, 2007, but prior to July 1, 2017, of machinery that comprises a cleanroom are exempt from state, local, and special district sales and use tax when the cleanroom will be used to produce tangible property such as computer components, microprocessors, blank and written software media, biotechnological products, nanotechnological products, photonic products , and pharmaceuticals. [§39-26-722, C.R.S]

Beginning June 2008, the availability of the cleanroom equipment exemption for a given fiscal year will be contingent upon sufficient revenue growth* for the fiscal year. [39-26-722(3), C.R.S]

**Definition**

"Cleanrooms" means an environment with a level of environmental pollutants such as dust, airborne microbes, aerosol particles, and chemical vapors equal to or less than the maximum number of particles per cubic meter. [§39-26-722 (2) (a), C.R.S.]

To qualify the machinery must:

- Be used in Colorado,
- Be part of a cleanroom that meets or exceeds the standards set in ISO 14644-1, class 6, or other succeeding definitions adopted by the international organization for standardization,
- Not be part of a building or a permanent, nonremovable component of a building that houses a cleanroom,
- Be included on a purchase order or invoice totaling more than $500.

**Eligible Equipment**

Machinery that qualifies for the exemption must constitute an assemblage of interrelated machines with separate functions and that collectively operate in a continuous process to reduce contamination or to control airflow, temperature, humidity, chemical purity, other environmental conditions, or manufacturing tolerances. Machinery that qualifies includes, but is not limited to:

1. integrated systems
2. fixtures
3. process piping
4. valves
5. electrical components
6. chillers
7. pumps
8. ducts
9. air management systems
10. tanks
11. motors
12. computers
13. any other related apparatus

Machinery is not disqualified from the exemption simply because it becomes affixed or incorporated into real property. However, machinery that becomes a permanent, nonremoveable component of a building that houses the cleanroom is not exempt.

The exemption applies only to “machinery.” Therefore, tangible personal property that is not “machinery” is not exempt. Nonmachinery items include, but are not limited to, chemicals or catalysts; gases and liquids; energy; safety or work apparel; standard janitorial supplies; hand tools; office equipment; furniture and supplies; replacement and repair parts that do not constitute machinery;[1] and the building in which the cleanroom is housed.

Machinery that does not “comprise a cleanroom” is not exempt. Examples of such machinery include, but are not limited to, intraplant transportation (for example, a forklift used to move material to or from the cleanroom to another building); machinery for waste disposal and pollution abatement (except to the extent that such machinery is necessary to remove the waste and pollution from the cleanroom); and machinery used to maintain, repair or store machinery that comprise a cleanroom.

A cleanroom that does not “produce tangible property” does not qualify for the exemption. For example, a medical research cleanroom used for research of toxins, but which does not produce tangible property, does not qualify for this exemption.

Tangible personal property that does not qualify for the cleanroom exemption may, nevertheless, qualify for the manufacturing machinery and machine tool exemptions. See, §39-26-709 and §39-30-106, (for enterprise zones), C.R.S.; and Publication FYI Sales 10, Sales Tax Exemption on Manufacturing Equipment.

**Leased Equipment**

The cleanroom exemption also applies to all state and applicable local and special district sales and use taxes that would normally be charged on the lease of eligible cleanroom equipment.

## CLAIMING THE EXEMPTION

Complete a copy of Sales Tax Exemption on Purchases of Machinery and Machine Tools (DR 1191). Give one copy of the completed form to the seller of the machinery and a second copy to the Department of Revenue. The exemption can only be claimed when the purchase order/invoice totals more than $500. Combining several invoices of less than that amount to reach the $500 threshold is not allowed unless the items purchased were originally on one purchase order that totaled more than $500.

If a taxpayer makes more than 100 purchases each year that qualify for the exemption, the taxpayer may complete a Machine Tools State Sales Tax Exemption Agreement (DR 1192) instead of preparing a DR 1191 for each purchase.

[1] In the absence of a specific statutory reference to replacement or repair parts and tools [see references to manufacturing machine tools (§39-26-709, C.R.S.) and farm repair and maintenance parts (§39-26-716, C.R.S.)], such parts are not exempt even if they are replacement or repair parts for exempt machinery; except, if the repair or replacement part itself constitute machinery, then it is exempt. For example, a replacement fan blade to a chiller unit (that qualifies as machinery comprising a cleanroom) is not “machinery” and therefore, the purchase of the replacement part is not exempt. However, a replacement part may itself constitute machinery (such as a motor for a chiller) and, if the replacement part comprises part of the cleanroom, it is exempt.

*Availability of the exemption is contingent upon the June legislative council revenue forecast issued prior to the fiscal year and the general fund appropriation must grow 6% over the previous year.