

VERMONT DEPARTMENT OF TAXES
MANUFACTURING ENERGY REGULATION

Reg. 1.9741(34) Manufacturing Energy Regulation

Reg. 1.9741(34)-1 (Effective September 10, 1995) Statement exemption

Beginning July 1, 1996 sales of electricity, oil, gas and other fuel (such as propane or wood chips) used directly or indirectly in manufacturing are exempt from sales and use tax. (32 V.S.A. § 9741(34)).

Beginning July 1, 1994, and through June 30, 1995, such sales are taxed at a rate of 3%. After June 30, 1995 and through June 30, 1996 such sales are taxed at a rate of 2%. (32 V.S.A. § 9773(a)).

Reg. 1.9741(34)-2 (Effective September 10, 1995) Definitions

Fuel is used directly in manufacturing if used for activities which qualify as direct manufacturing defined under 32 V.S.A. § 9741(14).

Fuel is “used indirectly in manufacturing” if used for the following purposes:

- (a) operation of machinery and equipment directly associated with production, such as pollution abatement equipment, equipment required by VOSHA/OSHA regulations, lighting or cranes for quarries or gravel pits, and other similar machinery and equipment;
- (b) receiving and storing raw materials;
- (c) testing quality control of product;
- (d) storing finished products at the production area up to initial shipping;
- (e) heating, cooling and lighting of the production area, of areas used for purposes in (a) through (d) above and of corridors and restrooms, etc., which are integral to the manufacturing area.

Reg. 1.9741(34)-3 (Effective September 10, 1995) Nonexempt activities.

Fuel used in the following activities is not used directly or indirectly in manufacturing:

- (a) administration;
- (b) sales or marketing;
- (c) retail operations, including storage at a retail outlet
- (d) distribution operations;

- (e) ancillary activities such as meeting, dining, child

care, automobile parking;

(f) research and development. (Note, however, that fuel used directly for research and development is exempt under 32 V.S.A. S 9741(24).

Reg. 1.9741(34)-4 (Effective September 10, 1995) Determination of the exempt Portion of purchases

When there are both exempt and nonexempt uses of fuel, the taxpayer may determine by any reasonable means the amount of fuel which is exempt from sales and use tax, including by separate meters or fuel storage tanks or by engineering study, or, unless floor space does not accurately reflect fuel usage, by the percentage of floor space used primarily for qualified purposes.

Reg. 1.9741(34)-5 (Effective November 1, 1995) Exemption Certificates

A vendor shall have met the burden of proof under 32 V.S.A. S 9813 if he or she has accepted from the purchaser and relied in good faith on a certificate of exemption. Such certificate shall be on a form prescribed by the commissioner and shall contain the purchaser's name, address, Vermont Business Account Number, and a statement either that purchases are exempt or the percentage of the purchases which are taxable and the percentage which are exempt. The certificate shall be signed by the purchaser.

Reg. 1.9741(34)-6 (Effective September 10, 1995) Example

XYZ corporation uses electricity to operate machinery which produces a product for sale, to operate office equipment and to provide lighting throughout its site. The site contains administrative offices, a warehouse for finished goods awaiting sale, and production area.

The electricity purchased for use in the production area, both for running the production equipment and for providing lighting, and for use at the warehouse is exempt (or taxable at a reduced rate if purchased before July 1, 1996). Electricity purchased for use in the administrative offices is not exempt.

To determine the percentage of exempt and nonexempt electricity, XYZ corporation observes the electricity used in similarly sized and equipped offices and determines that only 15% of its electricity is used in portions of the site not primarily used for manufacturing. XYZ corporation gives its supplier an exemption certificate claiming an exemption for 85% of the electricity.