

PRIVATE TAXPAYER RULING LR99-007

July 6, 1999

The following private taxpayer ruling is provided in response to your letter dated June 2, 1999, in which you request the department to rule regarding ... Company's qualification as a manufacturer for purposes of the enterprise zone program.

The following is a restatement of the facts as presented in your request for a private taxpayer ruling dated June 2, 1999.

Statement of Facts:

... makes ... dietary supplements. The raw material used for the product is unpasteurized milk, which is pasteurized at your facility or powdered milk. To manufacture the ready-to-drink meal, the processed milk must be blended with twenty-three vitamins and minerals, fiber, protein, flavorings and sweeteners in a unique proprietary formulation. These steps require the use of complex equipment and procedures. The result is a canned product with form, composition and properties far different from the unpasteurized milk used as raw material.

Your Position:

... is a manufacturer for purposes of being eligible for the tax incentives under the Enterprise Zone program.

Applicable Statutory Provisions:

Arizona Revised Statutes (A.R.S.) § 41-1525.B provides that real and personal property within an enterprise zone which is owned or used by a small manufacturing business that is certified by the department of commerce, shall be assessed as class eight property for purposes of property tax.

A.R.S. § 41-1525.01 defines "manufacturing as fabricating, producing or manufacturing products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

Pursuant to A.R.S. § 42-12008, real and personal property and improvements located in an enterprise zone and owned or used by a small manufacturing business that is certified by the department of commerce, is classified as class eight property for purposes of property tax.

A.R.S. § 42-15008 provides that the assessed valuation of class eight property is five percent of its full cash value.

Discussion:

For purposes of the enterprise zone tax incentives, A.R.S. § 41-1525.01 defines "manufacturing" as fabricating, producing or manufacturing products, wares or articles for use from raw or prepared materials, imparting to those materials new forms, qualities, properties and combinations.

The department's interpretation of the meaning of "manufacturing" centers around the exemption under transaction privilege and use taxes for the sale or purchase of machinery and equipment used directly in manufacturing, processing, fabricating, job printing, refining or metallurgical operations. Statute does not define manufacturing or processing for purposes of transaction privilege and use tax; however, manufacturing is defined by rule.

Arizona Administrative Code (A.A.C.) rule R15-5-120 defines "manufacturing" as the performance of an integrated series of operations which place tangible personal property in a form, composition, or character different from that which it was acquired and transforms it into a different product with a distinctive name, character or use.

A company whose business involves taking raw material, such as unpasteurized milk, which is pasteurized at its facility, or powdered milk and blending it with twenty-three vitamins and minerals, fiber, protein, flavorings and sweeteners in a unique proprietary formulation, resulting in a canned product with form, composition and properties far different from the unpasteurized milk used as raw material is engaging in a manufacturing activity. This company would be considered a manufacturer under the transaction privilege tax. As such, the company would qualify as a manufacturing business as defined under the enterprise zone provisions.

Conclusion and Ruling:

On the basis of the information provided, the department rules that ... is a manufacturer for purposes of the enterprise zone tax incentives. As such, real and personal property and improvements located in an enterprise zone and owned or used by ..., would be classified as class eight property for purposes of property tax.

The conclusion in this private taxpayer ruling does not extend beyond the facts as presented in the letter dated June 2, 1999, in this request for a private taxpayer ruling.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department and is valid for a

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period of four years from date of issuance except as set out herein. This determination is subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.