

Sales/Use/Indirect:

Texas: Taxpayer Deemed a Qualified “Manufacturer” Eligible for Electricity Purchase Exemption

Case No. 07-20-00301-CV, Tex. Ct. App. (1/3/22). A Texas Court of Appeals (Court) reversed a trial court ruling to hold in a taxpayer’s favor that its printing of third-party advertising on the reverse side of its produced cash register tapes qualifies as “manufacturing” under Texas Tax Code section 151.318, which exempts it from sales tax for electricity use during its production process. The Texas Comptroller of Public Accounts unsuccessfully claimed that i) the taxpayer’s imprinting of advertisements is a pre-production activity that does not fall within Texas’ manufacturing exemption; ii) printing is not manufacturing under Texas law; and iii) the equipment used to imprint advertisements on the reverse side of register tapes is not necessary or essential to produce the register tapes that the company sells to its customers. Among other reasons, the Court explained that the taxpayer successfully showed that to fulfill its agreements with its customers, the equipment at issue was “necessary and essential” to the actual manufacture of the cash register tapes it sold. Please contact us with any questions.

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