

Sales/Use/Indirect:

Michigan: Recycling Machinery Deemed Ineligible for Industrial Processing Exemption

Case No. 356950, Mich. Ct. App. (7/21/22). The Michigan Court of Appeals (Court) recently affirmed three Michigan Court of Claims rulings on remand from the Michigan Supreme Court's 2020 decision – which previously held that the temporal limitation of Michigan's sales and use tax industrial processing exemption does *not* apply as a bar to those activities specifically included in the definition of industrial processing [see *Case Nos. 158333, 158335*, Mich. (6/16/20) for more details on this Michigan Supreme Court decision] – agreeing that a taxpayer's sales of beverage container-recycling machines and repair parts ultimately failed to qualify for Michigan's industrial processing exemption. In doing so, the Court explained that the lower courts did not err by concluding that the machines at issue did not perform a specifically enumerated "industrial processing" activity under Michigan's sales and use tax statutes and that, as a result, the machines and attendant repair parts failed to satisfy the statutory criteria to qualify for the exemption – that is, they were *not* subject to the industrial-processing exemption set forth by Mich. Comp. Laws 205.54t and Mich. Comp. Laws 205.94o. The Court also held that the lower courts did not err by affirming the Michigan Department of Treasury's imposition of underlying negligence penalties against the taxpayer, concluding that its failure to maintain consistent documents "when a relatively high amount of sales tax was at stake" indicated a "lack of due care." Please contact us with any questions.

URL: https://www.courts.michigan.gov/siteassets/case-documents/uploads/OPINIONS/FINAL/COA/20220721_C356950_33_356950.OPN.PDF

URL: <https://courts.michigan.gov/Courts/MichiganSupremeCourt/Clerks/Recent%20Opinions/19-20-Term-Opinions/158333.pdf>

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