

OVERVIEW OF THE 1%/\$80 EXCISE TAX

REVENUE LAWS STUDY COMMITTEE
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Mill Machinery for Manufacturers



Gasoline engines, pumps



Motors, pulleys, conveyors, mixing tanks



Gloves, boots, hair nets, lab coats



Hand tools, cables, lathes, saws, welding machines






Forklifts, cranes



Repair parts and accessories

Rationale

- Sales tax should be designed to tax the final household consumption of goods and services.
- Taxing business purchases of intermediate goods and services can create pyramiding effect.
- 40% of the sales tax base represents business-to-business sales.


Raw Materials Raw Materials Transport Factory Final Product

Treatment of Business Inputs

- There are over 75 sales tax exemptions for business inputs, including:
 - Sales of TPP that become an ingredient/component part of mfd. Product
 - Fuel, PNG, electricity
 - About a dozen of which are geared toward:
 - Farm products and products of forests and mines sold in original state
 - Packaging materials

Treatment of Business Inputs


- No exemptions for equipment used by most service providers or retail outlets.






Treatment of Business Inputs


- Over time, exemptions have been added for various "service" providers.




Passenger air carriers




Commercial Fishing



Broadcasting equipment



Custom software

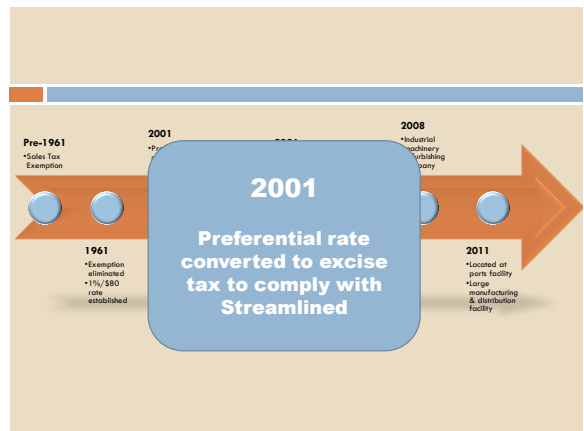
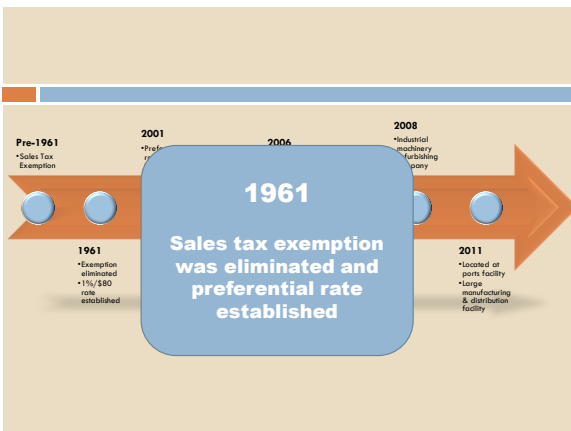
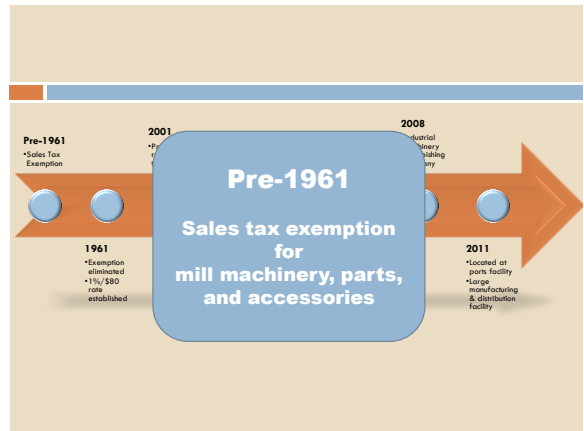
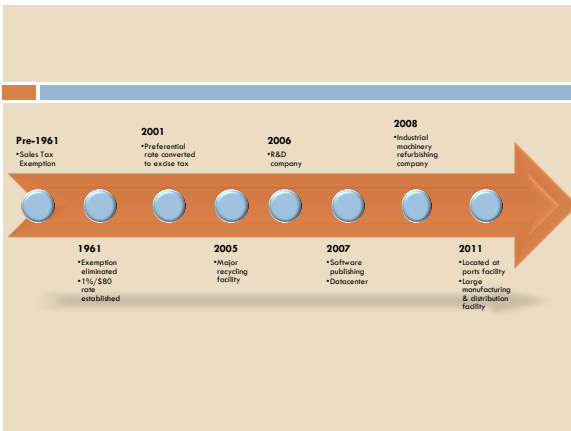


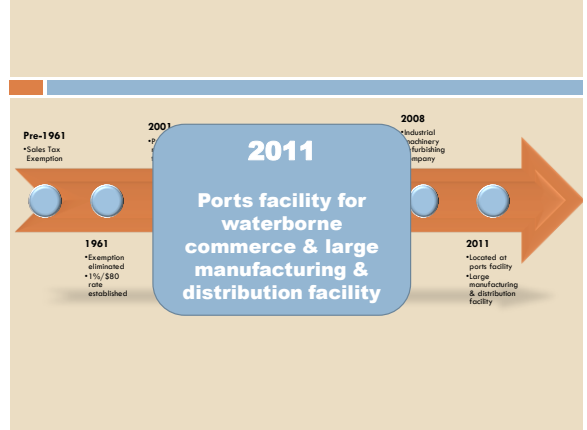
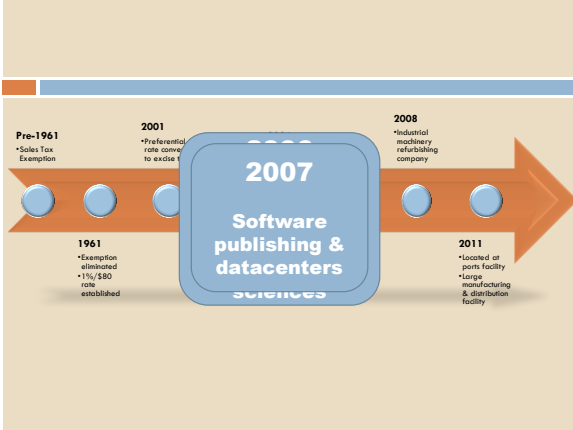
Dry cleaners

Fiscal Impact

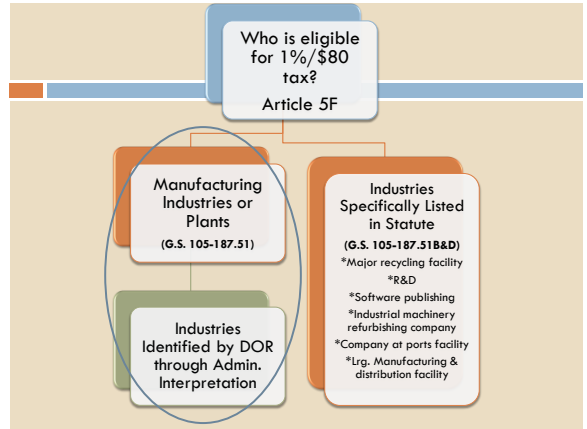
- If converted to sales tax exemption = -\$45M
- If taxed at general rate =
 - ▣ \$209M (State)
 - ▣ \$100M (Local)

HISTORY OF THE MILL MACHINERY TAX





MECHANICS OF THE MILL MACHINERY TAX



Who is Eligible?

- A manufacturing industry or plant.
 - A contractor or subcontractor in a performance contract with manufacturer.
 - A subcontractor in contract with a general contractor in contract with a manufacturer.




Administrative Interpretation

- Commercial photographers
- Mining companies
- Commercial laundries and dry cleaning establishments
- Public or private water purification plants
- Bottling plants
- Hatcheries

NOT a Manufacturer

- Restaurants
- Production companies



What is Eligible?

§ 105-187.51. Tax imposed on mill machinery.

(a) Scope. – A privilege tax is imposed on the following persons:

(1) A manufacturing industry or plant that purchases **mill machinery or mill machinery parts or accessories** for storage, use, or consumption in this State.

What is Mill Machinery?

Production Process



DOR Bulletin - All steps where operations are done on ingredient materials on a processing or assembly line turning out a finished product for sale.

Other States

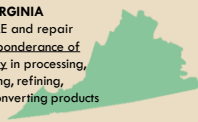
- Most states have a sales tax exemption for M&E used directly and exclusively in manufacturing or processing TPP for sale.
- 4 states have a reduced rate: AL (1.5%), CA (4.1875%), NC, MS (1.5%)
- 4 states + District of Columbia tax at standard sales tax rate (HI, NV, NM, SD)

Other States

GEORGIA
Exempts M&E that is necessary and integral to the manufacture of TPP, industrial materials, and packaging supplies.



VIRGINIA
Exempts M&E and repair parts if preponderance of use is directly in processing, manufacturing, refining, mining, or converting products for resale.



SOUTH CAROLINA
Exempts M&E used in manufacturing, processing, recycling, compounding, mining, or quarrying TPP for sale if they are integral and necessary to the manufacturing process; substantial use.



TENNESSEE
Exempts M&E that is necessary and primarily used for the fabrication or processing of a product for resale and consumption off premises; taxpayer must be a manufacturer (>50% revenues)



ISSUES TO CONSIDER

Issues to Consider

- Single article limitation
- Define “manufacturing industry”
- Define “mill machinery”



Item	Sales Price	Tax
Forklift	\$10,000	\$80
Conveyor System		
• Part A	\$1,000	\$10
• Part B	\$2,000	\$20
• Part C	\$3,000	\$30
• Part D	\$4,000	\$40
	\$10,000	\$100

Single Article Limitation

- Considerations
 - ▣ Impact of an increase on certain manufacturers
 - ▣ Administratively burdensome for Department

Issues to Consider

- Single article limitation
- Define “manufacturing industry”
- Define “mill machinery”

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Define Manufacturing Industry or Plant

- Must taxpayer be a manufacturer, and if so, what does that mean?
 - ▣ Threshold of activity
 - Some states require > 50% revenues derive from manufacturing; others look only at use of equipment.
 - At the “entity” level or the “facility” level?
 - ▣ Type of business
 - Service providers?
 - Self-service?
 - ▣ Type of activity

Definition of Manufacturing

- **U.S. Supreme Court** – “Manufacturing implies a change...there must be a **transformation**; a new and different article must emerge, having a distinctive name, character, or use.”



Definition of Manufacturing

- Type of activity
 - Many states list various production processes that either do or do not qualify: processing, generating, assembling, fabricating, refining, refurbishing, mining, extracting.
 - Examples of activity in other states that do not qualify: meat processing, making snow, rebuilding engines, making & packaging ice, pasteurizing milk, making sheet metal components, packaging/bottling, transmission of electricity (but generation does qualify)

Define Manufacturing Industry or Plant

- What about specific industries recognized in DOR administrative bulletin?
- What about industries specifically listed in G.S. 105-187.51B?
- Must the manufacturer own the goods being manufactured, processed, refurbished, etc.?

Issues to Consider

- Single article limitation
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Definition of Mill Machinery

- Modernize terminology?
- Refer to machinery used in manufacturing process?
- Address dual-use equipment – threshold?
 - Most states – “primarily used” = >50%
 - SC – “substantially used” = >33%
- Address beginning and end points of manufacturing process

Issues Raised by 2015 Proposed Legislation

- Expand tax to secondary metals recyclers.
 - Some but not all of their equipment qualify for 1%/\$80.
- Expand tax to manufacturers that fabricate items for their own use in the fulfillment of a performance contract; not considered the same as goods for sale.

To Sum Up

- The statute does not define “manufacturing industry.”
- The statute does not define “mill machinery.”
- The statute does not define “manufacturing” or identify the beginning and ending points of the process.
- It’s unclear whether you have to be a manufacturer to qualify.
- Not all machinery and equipment used by a manufacturer qualifies for 1%/\$80.
- Statute does not address whether a product must be produced for sale.

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