

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 111—Sales/Use Tax—Machinery and Equipment Exemptions

12 CSR 10-111.060 Material Recovery Processing Plant Exemption, as Defined in Section 144.030, RSMo

PURPOSE: Section 144.030.2(4), RSMo, exempts from taxation machinery and equipment and certain materials and supplies used to establish new, or to replace or expand existing, material recovery processing plants in this state. This rule explains the elements that must be met in order to qualify for the exemption.

(1) In general, the purchase of machinery and equipment, and the materials and supplies required solely for the operation, installation, or construction of such machinery and equipment is exempt from tax if used to establish new, or to replace or expand existing, material recovery processing plants in this state. Motor vehicles used on highways, as defined in section 301.010, RSMo, and materials and supplies used or consumed in the construction of a building or structure do not qualify for this exemption.

(2) Definition of Terms.

(A) Material recovery processing plant—A facility that has as its primary purpose the recovery of materials into a useable product or a different form that is used in producing a new product. A facility that uses a product made from recovered materials to manufacture another product is not a material recovery processing plant.

(B) New product—An item made from recovered materials that has a distinct identity, use, and market value separate from the recovered materials.

(C) Recovered materials—Items that have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not the items require subsequent separation and processing.

(D) Solid waste—Garbage, refuse, and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental, and domestic activities, but does not include hazardous waste, recovered materials, overburden, rock, tailings, matte, slag, or other waste material resulting from mining, milling, or smelting.

(E) Useable product—An item converted from recovered materials that has a market value.

(3) Basic Application of Exemption.

(A) The purchase of machinery and equipment used to establish new, or to expand existing, material recovery processing plants in this state is not subject to tax. The

purchase of materials and supplies required solely for the operation, installation, or construction of such machinery and equipment is not subject to tax.

(B) Materials and supplies used or consumed in the construction of a building or structure do not qualify for this exemption. Supplies do not include fuel.

(C) Recovery of materials does not include the reuse of materials within a manufacturing process or the use of a product previously recovered. A facility or equipment can also qualify if it is used exclusively for the collection of recovered materials for delivery to a material recovery processing plant. Equipment does not include motor vehicles used on highways.

(4) Examples.

(A) A new company purchases machinery and equipment to retread old tires. The company purchases old tires and produces retread tires for sale with the use of the new machinery and equipment. The machinery and equipment is not used for any other purpose. The machinery and equipment may be purchased under the material recovery processing plant exemption because the primary purpose of the facility is to convert the old tires into a useable product.

(B) A taxpayer acquires and processes solid waste for use as a fuel in its manufacturing operation. The taxpayer has a separate facility that uses shredders and pulverizers to grind the solid waste into sizes appropriate for use in the manufacturing operation. The separate facility, but not the manufacturing operation, qualifies for the material recovery processing plant exemption because the primary purpose of the separate facility is to convert solid waste into a useable product.

(C) A taxpayer has a facility that uses shredders and pulverizers to grind solid waste into sizes appropriate to use for fuel and qualifies as a material recovery processing plant. The taxpayer purchases lubricants to operate the shredders and pulverizers. Because the lubricants are required solely for the operation of the shredders and pulverizers in a material recovery processing plant, the purchase of the lubricants qualifies for the material recovery processing plant exemption.

(D) A taxpayer operates a recycling business that purchases aluminum, paper, and other used consumer products to be bundled and then sold to facilities that use them as raw materials to produce new and different products. The taxpayer purchases loaders, baling machines, and crushing equipment to prepare the materials for sale and shipping. The loaders push the materials into the balers, which compress the recovered materials to be baled for shipping. Because the taxpayer is collecting recovered materials, the purchase of the loaders, baling machines, and crushing equipment qualify for the material recovery processing plant exemption.

(E) A taxpayer operates a facility used exclusively for the collection of used motor oil for delivery to a material recovery processing plant. The taxpayer purchases storage tanks, pumps, and a truck for hauling the oil to and from its facility. The purchase of the storage

tanks and pumps is exempt from tax. The truck is a motor vehicle used on highways and does not qualify for the material recovery processing plant exemption.

(F) A manufacturer makes metal pipe. The manufacturing process creates metal scrap, which the taxpayer collects and reuses in its manufacturing process. The pipe manufacturer is not a material recovery processing plant because the metal scrap is reused in the pipe manufacturer's manufacturing process.

(G) A manufacturer makes polyvinyl chloride (PVC) pipe. The manufacturing process creates scrap that the pipe manufacturer collects and sells to a recycling company. The recycling company grinds and pulverizes the scrap for sale to others that use the processed scrap to make other products. The pipe manufacturer's facility is not a material recovery processing plant because the primary purpose of the plant is not the recovery of materials. The recycling company is a material recovery processing plant because its primary purpose is to convert solid waste into a different form for use in making new products. The plants that use recovered materials purchased from the recycling company are not material recovery processing plants.

(H) A manufacturer makes PVC pipe. To keep its plant clean, the manufacturer uses equipment to collect all scrap. After the scrap is collected in the plant, it is separated, crushed, bundled, and delivered to a recycler. The equipment used to clean the plant floor by collecting the scrap is subject to tax because it is not used exclusively for preparing the scrap for delivery to the recycler. The purchase of the equipment used to separate, crush, and bundle the scrap qualifies for the material recovery processing plant exemption because it is used exclusively to prepare the scrap for delivery to the recycler.

(I) A pressboard manufacturer acquires sawdust from a sawmill to use in its manufacturing process. The sawdust has not been previously altered or recycled. The pressboard manufacturer converts the sawdust into pressboard. The pressboard manufacturer is a material recovery processing plant because the plant is recovering sawdust into a new usable product. Plants that use pressboard purchased from the pressboard manufacturer are not material recovery processing plants.

(J) A window manufacturer purchases aluminum sheets for use in its manufacturing process. The aluminum sheets are made from one hundred percent (100%) recycled aluminum. The window manufacturer is not a material recovery processing plant because it is only using materials that were previously recovered.

(K) A manufacturer uses charcoal to purify water as part of its manufacturing process. The manufacturer must change the charcoal periodically because the charcoal no longer purifies the water once it is used for a while. The manufacturer contracts with a third party to revitalize the used charcoal using a chemical process. The third party returns the revitalized charcoal to the manufacturer, which then reuses it. The third party is a material recovery processing plant because the charcoal was diverted from the solid waste stream.

(L) A chicken processor processes live chickens into chicken parts for retail sale. The chicken processor has another facility that uses the entrails and other remaining parts to make dog food. The processor's other facility is a material recovery processing plant because the plant is recovering chicken entrails and other remaining parts into dog food.

(M) A manufacturing plant uses chemicals and solvents in its production processes to make chemical products used in various herbicides and pesticides. At the end of the manufacturing process, the plant isolates and recovers portions of the component parts, ingredients, and other chemicals from the chemical products to reuse them in subsequent manufacturing operations. The plant is not a material recovery processing plant because it is recovering materials to maintain an intended loop of reuse in a manufacturing process and not recovering materials to divert them from being discarded into the solid waste stream.

AUTHORITY: sections 144.270 and 144.705, RSMo 2016. Original rule filed Nov. 18, 1999, effective June 30, 2000. Amended: Filed Oct. 12, 2021, effective April 30, 2022.*

**Original authority: 144.270, RSMo 1939, amended 1941, 1943, 1945, 1947, 1955, 1961, 2008, and 144.705, RSMo 1959.*

Galamet, Inc. v. Director of Revenue, 915 S.W.2d 331 (Mo. banc 1996). *The Missouri Supreme Court held that a scrap metal reprocessor was engaged in manufacturing, not recycling. Manufacturing consists of the alteration or physical change of an object or material in such a way that produces an article with a use, identity, and value different from the use, identity, and value of the original.*