



House of Representatives

File No. 621

General Assembly

February Session, 2004 (Reprint of File No. 535)

House Bill No. 5479
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 16, 2004

**AN ACT CLARIFYING PROVISIONS RELATED TO THE PROPERTY
TAX EXEMPTION FOR MANUFACTURING MACHINERY AND
EQUIPMENT.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subparagraph (A) of subdivision (72) of section 12-81 of
2 the general statutes, as amended by section 53 of public act 03-6 of the
3 June 30 special session, is repealed and the following is substituted in
4 lieu thereof (*Effective from passage*):

5 (A) Effective for assessment years commencing on or after October
6 1, 2002, new machinery and equipment, as defined in this subdivision,
7 acquired after October 1, 1990, and newly-acquired machinery and
8 equipment, as defined in this subdivision, acquired on or after July 1,
9 1992, by the person claiming exemption under this subdivision,
10 provided this exemption shall only be applicable in the five full
11 assessment years following the assessment year in which such
12 machinery or equipment is acquired, subject to the provisions of
13 subparagraph (B) of this subdivision. Machinery and equipment
14 acquired on or after July 1, 1996, and used in connection with

15 biotechnology shall qualify for the exemption under this subsection.
16 For the purposes of this subdivision: (i) "Machinery" and "equipment"
17 [mean] means tangible personal property which is installed in a
18 manufacturing facility [,] and claimed on the owner's federal income
19 tax return as either five-year property or seven-year property, as those
20 terms are defined in Section 168(e) of the Internal Revenue Code of
21 1986, or any subsequent corresponding internal revenue code of the
22 United States, as from time to time amended, and the predominant use
23 of which is for manufacturing, processing or fabricating; for research
24 and development, including experimental or laboratory research and
25 development, design or engineering directly related to manufacturing;
26 for the significant servicing, overhauling or rebuilding of machinery
27 and equipment for industrial use or the significant overhauling or
28 rebuilding of other products on a factory basis; for measuring or
29 testing or for metal finishing; or used in the production of motion
30 pictures, video and sound recordings. "Machinery" means the basic
31 machine itself, including all of its component parts and contrivances
32 such as belts, pulleys, shafts, moving parts, operating structures and
33 all equipment or devices used or required to control, regulate or
34 operate the machinery, including, without limitation, computers and
35 data processing equipment, together with all replacement and repair
36 parts therefor, whether purchased separately or in conjunction with a
37 complete machine, and regardless of whether the machine or
38 component parts thereof are assembled by the taxpayer or another
39 party. "Equipment" means any device separate from machinery but
40 essential to a manufacturing, processing or fabricating process. (ii)
41 "Manufacturing facility" means that portion of a plant, building or
42 other real property improvement used for manufacturing, processing
43 or fabricating, for research and development, including experimental
44 or laboratory research and development, design or engineering
45 directly related to manufacturing, for the significant servicing,
46 overhauling or rebuilding of machinery and equipment for industrial
47 use or the significant overhauling or rebuilding of other products on a
48 factory basis, for measuring or testing or for metal finishing. (iii)
49 "Manufacturing" means the activity of converting or conditioning

50 tangible personal property by changing the form, composition, quality
51 or character of the property for ultimate sale at retail or use in the
52 manufacturing of a product to be ultimately sold at retail. Changing
53 the quality of property shall include any substantial overhaul of the
54 property that results in a significantly greater service life than such
55 property would have had in the absence of such overhaul or with
56 significantly greater functionality within the original service life of the
57 property, beyond merely restoring the original functionality for the
58 balance of the original service life. (iv) "Fabricating" means to make,
59 build, create, produce or assemble components or tangible personal
60 property work in a new or different manner, but does not include the
61 presorting, sorting, coding, folding, stuffing or delivery of direct or
62 indirect mail distribution services. (v) "Processing" means the physical
63 application of the materials and labor in a manufacturing process
64 necessary to modify or change the characteristics of tangible personal
65 property. (vi) "Measuring or testing" includes both nondestructive and
66 destructive measuring or testing, and the alignment and calibration of
67 machinery, equipment and tools, in the furtherance of the
68 manufacturing, processing or fabricating of tangible personal property.
69 (vii) "Biotechnology" means the application of technologies, including
70 recombinant DNA techniques, biochemistry, molecular and cellular
71 biology, genetics and genetic engineering, biological cell fusion
72 techniques, and new bioprocesses, using living organisms, or parts of
73 organisms, to produce or modify products, to improve plants or
74 animals, to develop microorganisms for specific uses, to identify
75 targets for small molecule pharmaceutical development, or to
76 transform biological systems into useful processes and products.

77 Sec. 2. Subparagraph (B) of subdivision (72) of section 12-81 of the
78 general statutes is repealed and the following is substituted in lieu
79 thereof (*Effective from passage*):

80 (B) Any person who on October first in any year holds title to
81 machinery and equipment for which such person desires to claim the
82 exemption provided in this subdivision shall file with the assessor or
83 board of assessors in the municipality in which the machinery or

84 equipment is located, on or before the first day of November in such
85 year, a list of such machinery or equipment together with written
86 application claiming such exemption on a form prescribed by the
87 Secretary of the Office of Policy and Management. Such application
88 shall include the taxpayer identification number assigned to the
89 claimant by the Commissioner of Revenue Services and the federal
90 employer identification number assigned to the claimant by the
91 Secretary of the Treasury. If title to such equipment is held by a person
92 other than the person claiming the exemption, the claimant shall
93 include on such person's application information as to the portion of
94 the total acquisition cost incurred by such person, and on or before the
95 first day of November in such year, the person holding title to such
96 machinery and equipment shall file a list of such machinery with the
97 assessor of the municipality in which the manufacturing facility of the
98 claimant is located. Such person shall include on the list information as
99 to the portion of the total acquisition cost incurred by such person.
100 Commercial or financial information in any application or list filed
101 under this section shall not be open for public inspection, provided
102 such information is given in confidence and is not available to the
103 public from any other source. The provisions of this subdivision
104 regarding the filing of lists and information shall not supersede the
105 requirements to file tax lists under sections [12-42, 12-43, 12-57a and
106 12-59] 12-41, 12-42 and 12-57a. In substantiation of such claim, the
107 claimant and the person holding title to machinery and equipment for
108 which exemption is claimed shall present to the assessor or board of
109 assessors such supporting documentation as said secretary may
110 require, including, but not limited to, invoices, bills of sale, contracts
111 for lease and bills of lading and shall, upon request, present to the
112 secretary or the secretary's designee a copy of each applicable federal
113 income tax return and accompanying schedules. In lieu of submitting
114 each applicable federal income tax return and accompanying
115 schedules, a claimant and person holding title to machinery and
116 equipment for which an exemption is claimed may, upon approval of
117 said secretary, submit copies of applicable schedules accompanied by a
118 sworn affidavit stating that such schedules were filed as part of such

119 claimant's or person's federal income tax return. Failure to file such
120 application in this manner and form within the time limit prescribed
121 shall constitute a waiver of the right to such exemption for such
122 assessment year, unless an extension of time is allowed pursuant to
123 section 12-81k. If title to exempt machinery is conveyed subsequent to
124 October first in any assessment year, entitlement to such exemption
125 shall terminate for the next assessment year and there shall be no pro
126 rata application of the exemption unless such machinery or equipment
127 continues to be leased by the manufacturer who claimed and was
128 approved for the exemption in the previous assessment year.
129 Machinery or equipment shall not be eligible for exemption upon
130 transfer from a seller to a related business or from a lessor to a lessee
131 except to the extent it would have been eligible for exemption by the
132 seller or the lessor, as the case may be. For the purposes of this
133 subdivision, "related business" means: (i) A corporation, limited
134 liability company, partnership, association or trust controlled by the
135 taxpayer; (ii) an individual, corporation, limited liability company,
136 partnership, association or trust that is in control of the taxpayer; (iii) a
137 corporation, limited liability company, partnership, association or trust
138 controlled by an individual, corporation, limited liability company,
139 partnership, association or trust that is in control of the taxpayer; or
140 (iv) a member of the same controlled group as the taxpayer. For
141 purposes of this subdivision, "control", with respect to a corporation,
142 means ownership, directly or indirectly, of stock possessing fifty per
143 cent or more of the total combined voting power of all classes of the
144 stock of such corporation entitled to vote. "Control", with respect to a
145 trust, means ownership, directly or indirectly, of fifty per cent or more
146 of the beneficial interest in the principal or income of such trust. The
147 ownership of stock in a corporation, of a capital or profits interest in a
148 partnership or association or of a beneficial interest in a trust shall be
149 determined in accordance with the rules for constructive ownership of
150 stock provided in Section 267(c) of the Internal Revenue Code of 1986,
151 or any subsequent corresponding internal revenue code of the United
152 States, as from time to time amended, other than paragraph (3) of said
153 Section 267(c).

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Policy & Mgmt., Off.	GF - Savings	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
All Municipalities	Savings	Potential	Potential

Explanation

The bill would result in cost savings to the state and municipalities to the extent that a taxpayer has not cited machinery and equipment on its federal tax return that is consistent with provisions exempting manufacturing machinery and equipment from property taxes.

The state reimburses towns for a portion of the property taxes foregone on manufacturing machinery and equipment.

House "A" has no fiscal impact since it just adds the provision that allows businesses to submit only the personal property schedules if the OPM secretary approves.

OLR Bill Analysis

HB 5479 (as amended by House "A")*

AN ACT CLARIFYING PROVISIONS RELATED TO THE PROPERTY TAX EXEMPTION FOR MANUFACTURING MACHINERY AND EQUIPMENT**SUMMARY:**

By law, businesses qualify for a five-year, 100% property tax exemption on new and newly acquired manufacturing machinery and equipment if it meets the Internal Revenue Code's definition of five- or seven-year property classifications for determining depreciation for federal tax purposes. The state reimburses towns for 80% of the tax revenue they forgo because of this exemption.

This bill specifies that a business must have depreciated the property in this manner on its federal tax return in order to qualify for the exemption. The business must provide a copy of the return and the accompanying schedules to the Office of Policy and Management (OPM) secretary if he requests them. In lieu of submitting both documents, the business may submit only the schedules, if the secretary approves. A sworn affidavit must accompany them stating that were filed as part of the return.

By law, the business must prepare a list of the machinery and equipment for which it claims the exemption and submit it to the assessor by November 1 annually. The bill specifies that this requirement does not supersede the list of personal property the business must file annually with the assessor but does supersede the lists nonresidents and corporations must file annually.

*House Amendment "A" allows businesses to submit only the schedules if the OPM secretary approves.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 45 Nay 0