

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-89(12)C
Corporation Tax
October 17, 1989

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. C890706A

On July 6, 1989, a Petition for Advisory Opinion was received from Artopex Inc., C.P., Box 435 St. Martin, Laval, Quebec, Canada H7S 1zg.

The issue raised is whether the proposed activities to be conducted by Petitioner, Artopex, Inc., or its subsidiary at a Troy, New York site will constitute "manufacturing" pursuant to section 210.12 (b)(ii)(A) of the Tax Law, for purposes of qualifying for the investment tax credit, the employment incentive tax credit, and/or the economic development zone investment tax credit.

Petitioner, Artopex Inc., is a Canadian corporation with a United States based subsidiary, Artopex (U.S.) Inc. Artopex (U.S.) Inc. was incorporated in Illinois in 1982. Petitioner proposes to open a plant in Troy, New York. The City of Troy has been declared an economic development zone area. At such plant, Petitioner proposes to produce office furnishings, namely, modular panels and two lines of office seats. Production at the Troy plant will consist of:

1. gathering raw materials from various suppliers;
2. cutting and welding steel parts for chairs and panels;
3. painting of some parts in a custom built powder coating paint shop; and
4. upholstering the chairs and panels produced.

For purposes of the investment tax credit, section 210.12 (b)(ii)(A) of the Tax Law defines "manufacturing" as "the process of working raw materials into wares suitable for use or which gives new shapes, new quality or new combinations to matter which already has gone through some artificial process by the use of machinery, tools, appliances and other similar equipment".

For purposes of the economic development zone investment tax credit, section 210.12-B(b) contains the definition of "manufacturing". Such definition is identical to the investment tax credit definition of manufacturing.

The provisions of the employment incentive tax credit, under section 210.12-D of the Tax Law, do not contain a definition of manufacturing. Such definition is not necessary because the first requirement for qualifying for this credit is that the taxpayer is allowed an investment tax credit under section 210.12 of the Tax Law. Therefore, the manufacturing test would be met under the investment tax credit rules.

The production of the office chairs and modular panels described herein, constitutes manufacturing as such term is defined for purposes of the investment tax credit under section 210.12(b)(ii)(A) of the Tax Law, and the economic development zone investment tax credit under section 210.12-B(b) of the Tax Law.

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However, the Petitioner must meet the other statutory requirements for qualifying for the investment tax credit computed pursuant to section 210.12 of the Tax Law; the employment incentive tax credit computed pursuant to section 210.12-D of the Tax Law or the economic development zone investment tax credit computed pursuant to section 210.12-B of the Tax Law.

DATED: October 17, 1989

s/FRANK J. PUCCIA
Director
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth therein.