

1978 Legislation

Clarifying the Meaning of Catalysts With

Respect to Credit for New York State Sales Tax

Paid on Catalysts

Chapter 790 of the Laws of 1978 makes clarifying amendments with respect to the credit allowed under section 606(d) of Article 22 and section 701(f) of Article 23 of the New York State Tax Law.

The amendments substitute the phrase "catalytic, purifying or bleaching chemical agent" for the word "catalyst".

The above sections of the Tax Law provided that a credit may be claimed for sales and compensating use taxes paid on or after January 1, 1978 on the purchase of any catalyst used directly and predominantly in the production of tangible personal property for sale.

Note that Sales Tax Regulations 20 NYCRR 528.13(c) provides in part:

"(c) Directly and predominantly. (1) "Directly" means the machinery or equipment, during the production phase of a process,

(i) act upon or effect a change in material to form the product to be sold, or

(ii) have an active causal relationship in the production of the product to be sold, or

(iii) be used in the handling, storage, or conveyance of materials or the product to be sold, or

(iv) be used to place the product to be sold in the package in which it will enter the stream of commerce."

"(2) Usage in activities collateral to the actual production process is not deemed to be use directly in production."

(Examples omitted)

"(3) Machinery used to produce other machinery or equipment or parts for self use in production is considered to be used directly in production."

(Examples omitted)

"(4) Machinery or equipment is used predominantly in production, if over 50% of its use is directly in the production phase of a process."

(Examples omitted)

"(5) Machinery or equipment used in production by someone other than its owner is exempt under the same conditions as other machinery and equipment."

(Example omitted)