WEST VIRGINIA CODE CHAPTER 11 ARTICLE 6E

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§11-6E-1. Short title.

This article shall be known and cited as the "Specialized Manufacturing Production Property Valuation Act".

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§11-6E-2. Definitions.

(a) When used in this article, or in the administration of this article, terms defined in subsection (b) of this section have the meanings ascribed to them by this section, unless a different meaning is clearly required by the context in which the term is used.

(b) Terms defined.

(1) "Die" means a device for shaping, forming or stamping material by pressure or by a blow, or for impressing a figure or design on material by pressure or by a blow, and other devices as set forth in this subdivision.

(A) The term "die" means and includes:

(i) Dies used in compression molding, transfer molding, injection molding, blow molding or blowing, vacuum forming and extrusion molding;

(ii) Extrusion dies and drawing dies consisting of a block made of metal or other material which is perforated by a hole having a particular cross section which imparts a shape to plastic, thermoplastic, hot or ductile metal or other material that is extruded through the hole by ramming or pressure, or drawn through the hole;

(iii) A block made of metal or other material which is pressed into a blank of material, often sheet metal, positioned between the die and a mold, so that the material is pressed into the mold by the die and caused to assume a desired shape in manufacturing; and

(iv) A block or blocks of metal or other material constructed in halves, which operate in such a way that, when a blank of sheet metal is positioned between the halves of the die and pressed between the halves of the die, a desired shape is imparted to the sheet metal.

(B) The term "die" does not include threading dies, screwing dies, chasers, or any die holder or die stock for threading dies, screwing dies or chasers. For purposes of this section, the terms "threading die", "screwing die" or "chaser" mean one or more blocks made of steel, or other material, threaded internally with cutting points, or surfaces for producing screw threads. Threading dies, screwing dies or chasers can be made in a single block or in segments.

(2) "Directly used in manufacturing", in relation to specialized manufacturing production property directly used in manufacturing, means directly used in those activities or operations which constitute an integral and essential part of the manufacturing activity, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the manufacturing activity.

Those uses of specialized manufacturing production property which constitute direct use in the activity of manufacturing include only:

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(A) Use of the property to cause a direct physical change upon property undergoing manufacturing;

(B) In the case of jigs, use of the property to physically control or direct the physical movement or operation of property undergoing manufacturing in conjunction with and during the making of a direct physical change upon that property, or use of a jig in direct physical contact with the property undergoing manufacturing as a checking fixture, to test the property undergoing manufacturing or part for conformity to specifications;

(C) In the case of patterns, use of a pattern in each production cycle to make a new mold in the ongoing manufacturing process, where the mold made from the pattern is directly used to cause a direct physical change upon property undergoing manufacturing; and

(D) In the case of templates, use of templates by placing them in physical contact with property undergoing manufacturing for the direct marking of, or direct location of, holes, contours, cuts, cutout sections or shapes to be incorporated into the manufactured property.

(3) "Form" means a mold, as defined in this section, or a frame, shape, body or implement around which or on which a manufactured product is shaped or made, and which is designed to cause the manufactured product to take on a specific particular shape.

(4) "Jig" means and includes a mechanical device used to accurately guide or locate a tool or other implement that causes a direct physical change in property undergoing manufacturing or used to maintain the correct position between property undergoing manufacturing and a tool or implement. The jig is mainly used for producing interchangeable parts or exact reproductions of the same manufactured item or product. The term "jig" shall not include any conveyor belt, roller conveyor, track conveyor, crane, chain line, chain conveyor or other apparatus which serves merely to move property from one operation or place in the manufacturing process to another operation or place. The term "jig" includes a checking fixture, which is a jig built to test manufactured parts produced from a set of dies or other manufactured parts, for conformity to specifications.

(5) "Manufacturer" means a person engaged in the activity of manufacturing in this state.

(6) "Manufacturing" means a systematic operation or integrated series of systematic operations engaged in as a business or segment of a business which transforms or converts tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. In no case shall the term "manufacturing" include the activities of building construction, construction of other structures or facilities affixed to or on realty, retailing or agriculture, food processing or food manufacturing, the operation of any restaurant or retail food preparation or sales operation, the production of any natural resource, contract mining or any other activity of severing, producing, processing or extracting any natural resource. Manufacturing production begins with the arrival of raw materials and ends when the property has reached that point where no further chemical, physical or other changes are to be made to the resultant property in

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the production process.

(7) "Manufacturing service provider" means a person engaged in a manufacturing activity who does not have legal title to or any economic interest in the tangible personal property transformed or converted by the manufacturing process, and who engages in the manufacturing activity as a service to another person.

(8) "Mold" means a form, block, vessel or matrix containing a cavity or cavities into which fluid, molten material, plastic material or malleable material is poured, pressed, rammed or injected to form a manufactured object conforming to the contours of the mold and having the desired shape, pattern or relief. The term "mold" includes molds and mold cavities used in compression molding, transfer molding, injection molding, blow molding or blowing, and vacuum forming.

For purposes of this article, the term "mold" does not include any sand casting flask or other apparatus or equipment used in conjunction with sand casting. However, patterns used in sand casting may constitute specialized manufacturing production property, as defined in this section.

(9) "Pattern" means a model for making a mold, as defined in this section, where production of the manufactured product by use of the mold entails the destruction of the mold with each production cycle, such as sand casting. The term "pattern" includes a model for making a sand casting mold into which molten metal is poured to form a casting.

A pattern qualifies as specialized manufacturing production property under this article only where the pattern must be repeatedly used in each production cycle to make a new mold in the ongoing manufacturing process, and where the mold made from the pattern is directly used in manufacturing to cause a direct physical change upon property undergoing manufacturing.

For purposes of this subdivision, the term "model" means a shape or figure made of wood, metal or other material having the basic shape of the manufactured product, with such appropriate sprues, runners and other necessary additional features as may be needed for efficient casting or production of the manufactured product.

(10) "Person" means and includes any state, or its political subdivisions or an agency of the State of West Virginia or its political subdivisions, or any individual, firm, partnership, joint venture, joint stock company, the government of the United States or its agencies, any public or private corporation, municipal corporation, cooperative, estate, trust, business trust, receiver, executor, administrator, any other fiduciary, any representative appointed by order of any court or otherwise acting on behalf of others, or any other group or combination acting as a unit.

(11) "Salvage value" means the lower of fair market salvage value or five percent of the original cost of the property.

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(12) "Specialized manufacturing production property" means molds, jigs, dies, forms, patterns or templates, as defined in this section, directly used in manufacturing. Molds, jigs, dies, forms, patterns and templates directly used in manufacturing may qualify as specialized manufacturing production property notwithstanding the fact that the molds, jigs, dies, forms, patterns and templates may be owned by a person other than the West Virginia manufacturer or the West Virginia manufacturing service provider. In no case shall specialized manufacturing production property include any property not actively and directly used by a West Virginia manufacturer or West Virginia manufacturing service provider in the activity of manufacturing.

For purposes of this article, specialized manufacturing production property does not include:

(A) Research and development equipment used in developing new products or improving present products;

(B) Computers and computer software;

(C) Layout and design equipment, including computers and computer software;

(D) Machinery, tools, parts and materials used to repair equipment, including equipment directly used in the manufacturing process;

(E) Drawings, blueprints or blueprinting equipment;

(F) Tangible personal property used in testing and inspecting products on the production line or elsewhere for quality control purposes: Provided, That this exclusion shall not apply to tangible personal property which would otherwise meet the definition of a jig;

(G) Equipment, and supplies used in packaging or packing manufactured products for sale; and

(H) Any sand casting flask or sand casting equipment or other apparatus used in conjunction with sand casting. However, patterns used in sand casting may constitute specialized manufacturing production property.

(I) Any equipment or property other than molds, jigs, dies, forms, patterns or templates, as defined in this section.

(13) "Template" means an instrument or implement, often in the form of a flat or contoured sheet, plate, or strip of metal, plastic, wood or other material, having markings or lines, perforations, cuts, cutout sections, or one or more edges shaped to conform to a desired shape or any combination of perforations, cuts, cutout sections or shaped edges, to be used as a guide or gauge for marking locations for, or otherwise locating the placement of cuts, cutout sections, holes or a desired shape to be transferred to the property undergoing manufacturing. Only those templates, as defined in this section, which are physically placed upon the property undergoing manufacturing for the direct marking of, or direct location of,

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holes, contours, cuts, cutout sections or shapes to be incorporated into the property qualify as specialized manufacturing production property for purposes of this article.

In no case shall templates constitute specialized manufacturing production property for purposes of this article if the templates are used in:

(A) Drafting, drawing or design;

(B) Research and development;

(C) Layout and design of products or production equipment;

(D) Set up, adjustment, ongoing operation or repair of production machinery, tools and parts or other machinery, tools and parts;

(E) Testing and inspecting products on the production line or elsewhere for quality control purposes: Provided, That this exclusion shall not apply to tangible personal property which would otherwise meet the definition of a jig; or

(F) Packaging or packing manufactured products for sale.

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§11-6E-3. Valuation of specialized manufacturing production property.

Notwithstanding any other provision of this code to the contrary, the value of specialized manufacturing production property, for the purpose of ad valorem property taxation under this chapter and under Article X of the Constitution of this state, shall be its salvage value.

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§11-6E-4. Initial determination by county assessor.

The assessor of the county in which a specific item of property is located shall determine, in writing, whether that specific item of property is specialized manufacturing production property subject to valuation in accordance with this article. Upon making a determination that a taxpayer has specialized manufacturing production property, the county assessor shall notify the Tax Commissioner of that determination, and shall provide such information to the Tax Commissioner as the Tax Commissioner may require relating to that determination.

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§11-6E-5. Protest and appeal.

At any time after the property is returned for taxation but prior to January 1, of the assessment year, any taxpayer may apply to the county assessor for information regarding the issue of whether any particular item or items or property constitute specialized production manufacturing property under this article which should be subject to valuation in accordance with this article. If the taxpayer believes that some portion of the taxpayer's property is subject to the provisions of this article, the taxpayer shall file objections in writing with the county assessor. The county assessor shall decide the matter by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for the county assessor's refusal. The county assessor may, and if the taxpayer requests, the county assessor shall, before January 1, of the assessment year, certify the question to the Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements. The sworn statement or statements shall contain a full description of the property and any other information which the Tax Commissioner may require.

The Tax Commissioner shall, as soon as possible on receipt of the question, but in no case later than the twenty-eighth day of February of the assessment year, instruct the county assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the county assessor are binding upon the county assessor, but either the county assessor or the taxpayer may apply to the circuit court of the county for review of the question of the applicability of this article to the property in the same fashion as is provided for appeals from the county commission in section twenty-five, article three of this chapter. The Tax Commissioner shall prescribe forms on which the questions under this section shall be certified and the Tax Commissioner has the authority to pursue any inquiry and procure any information which may be necessary for disposition of the matter.

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§11-6E-6. Effective date.

This article shall be effective on and after July 1, 1997.

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