

TAXATION:  
MERCHANTS AND MANUFACTURERS:  
MANUFACTURERS:

The term "raw materials", as used in Sections 150.310 and 92.040, RSMo 1949, means and includes all materials and things out of which the final or finished product is made.



February 10, 1958

Honorable Thomas F. Eagleton  
Circuit Attorney  
City of St. Louis  
Municipal Courts Building  
St. Louis, Missouri

Dear Mr. Eagleton:

Reference is made to your request for an official opinion of this office, which request reads, in part, as follows:

"1. Under Sections 150.310 and 92.040, R.S.Mo. 1949 are the goods-in-process of a manufacturer taxable as part of the manufacturer's license levy?

"2. If the answer to the foregoing question is in the negative, then are such goods-in-process taxable as personal property at existing tax rates by the Assessor of the City of St. Louis?"

You first inquire whether "goods-in-process" of a manufacturer are taxable under the provisions of Sections 150.310 and 92.040, RSMo 1949.

From the material submitted with your request, you understand the phrase "goods-in-process" to mean materials which have been subjected to some manufacturing processes by the company, person or corporation owning or holding the same, thereby changing it from the natural state or from the state in which it was received, but which will be eventually subjected to further manufacturing processes before it becomes a finished product, or goods actually undergoing manufacturing processes. The following opinion is based upon this understanding of the term "goods-in-process."

Honorable Thomas F. Eagleton

Section 150.310, RSMo 1949, relating to the taxation of manufacturers, provides as follows:

"1. Every manufacturer in this state shall be licensed and taxed on all raw material and finished products, as well as all the tools, machinery and appliances used by them, in the same manner as provided by law for the taxing and licensing of merchants; and no county, city, town, township, or municipal authority thereof, shall ever levy any greater amount of tax against a manufacturer than is levied against merchants for the same period.

"2. Licenses issued under sections 150.300 to 150.370, shall be for one year, ending on the thirty-first day of December of the then current year.

"3. Nothing in sections 150.300 to 150.370, shall be so construed as to apply to manufacturers whose raw material, finished products, tools, machinery and appliances in the aggregate amount are less than one thousand dollars."

Section 92.040, RSMo 1949, to which you refer, refers to "the raw material, merchandise, finished products, tools, machinery and appliances used or kept on hand by manufacturers."

"Goods-in-process" clearly should not come within the term "finished product" as that term is used in the two above noted sections. Does it then come within the term "raw materials"? We believe that it does.

In the case of State v. Hennessy Co., 230 P. 64, the Supreme Court of Montana stated:

"\* \* \* But, though the term 'raw material' is retained in many definitions of 'manufacture,' it denotes merely the material out of which the final product is made. It is obvious that what is raw material to one is a finished product to another. To the tanner leather is a manufactured or finished product, but to the shoemaker, it is raw material."

Honorable Thomas F. Eagleton

In the case of City of Henderson v. George Delker Co., 235 S.W. 732, the Court of Appeals of Kentucky, in referring to the use of the term "raw material" in a taxing statute, stated:

"\* \* \* As shown in that case, it is not necessary, for a business enterprise to be a manufactory, that it should make completed articles from materials that are altogether raw, and we may add, as intimated in that opinion, that by the term 'raw material,' as used in the statute, is not necessarily meant crude material in its natural state, but there may be included in the term a product made from the crude material, and which has undergone manufacturing processes and controverted into a distinct product from which an entirely different one may be made by the application of additional scientific processes, in which case the converted or prepared product may be regarded as 'raw material' within the meaning of the statute."

See also the case of Tidewater Oil Co. v. U. S., 171 U.S. 210, 18 S.Ct. 837, 43 L.Ed. 139.

We are of the opinion that it was the intention of the General Assembly to include in the term "raw materials", as used in Sections 150.310 and 92.040, RSMo 1949, all materials owned or held by a manufacturer, other than those in a finished state ready for delivery or sale.

#### CONCLUSION

Therefore, in the premises, it is the opinion of this office that the term "raw materials", as used in Sections 150.310 and 92.040, RSMo 1949, means and includes all materials and things out of which the final or finished product is made and would embrace materials which have undergone some manufacturing processes but which will subsequently undergo further processes before becoming a finished product, and materials

Honorable Thomas F. Eagleton

which are actually undergoing a manufacturing process and which have not reached the state of a finished product.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Donal D. Guffey.

Very truly yours,

John M. Dalton  
Attorney General

DDG:hw