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Arkansas Sales Tax Exemption/Pollution Control: 2015 Arkansas Department of Environmental Quality Memorandum Addressing Air Pollution Control Equipment

Arkansas Environmental, Energy, and Water Law Blog

01/09/2017

Arkansas provides exemptions from the Gross Receipts Tax (also known as a “sales tax”) for a variety of expenditures.

An exemption relevant to those Arkansas facilities installing pollution control equipment is Ark. Code Ann. § 26-52-502(a)(c) which applies to machinery and equipment installed/utilized to reduce water or air pollution.

The Arkansas Department of Environmental Quality (“ADEQ”) is often asked to provide those seeking such an exemption a determination as to whether the machinery or equipment fits within the scope of the relevant descriptive language of the statute. However, note that the Arkansas Department of Finance and Administration (which administers the exemption) makes the final determination as to which specific items qualify as machinery or equipment used to prevent or reduce water air pollution.

Whether a particular project or expenditure fits within the scope of this exemption may mean a significant difference in its cost. As a result, it is important to understand the relevant Arkansas agencies’ view of which equipment or machinery qualifies for an exemption.

A significant number of the ADEQ determinations have involved water pollution control equipment. However, an ADEQ memorandum from 2015 addressed a company’s acquisition of certain air pollution control equipment.

A February, 2015 ADEQ memorandum addressed the potential eligibility of a Gas Chromatograph (“GC”). The memorandum references equipment purchased by the VISKASE company in intra-agency correspondence between ADEQ personnel Eleanor Goins and Thomas Rhaume. Ms. Goins noted:

During review of the tax exemption letter and memos it was noticed that an Air Pollution Control Device-Gas Chromatograph (“GC”), used to measure gas pollutant concentrations at both the inlet and outlet of the bio-filter is mentioned at the end of page 2 in the request letter. Should this equipment be included in the Air Pollution control equipment that treats or prevents Air Pollution?

Mr. Phil Murphy of the ADEQ's Air Division responded to the question. He considered the GC to be part of the air pollution control equipment.

A more detailed January 29th memorandum from Mr. Murphy to Ms. Goins lists a number of items of VIKASE equipment being assessed for eligibility for the exemption as air pollution control equipment. [A copy of the January 29th agency memorandum listing the various equipment \(such as lime silo baghouse, reactor towers, recirculation tank and pump, humidifier, exhaust stack, etc.\) can be downloaded here.](#) The other referenced memorandum can be downloaded [here.](#)