

(I) A SALE OF TANGIBLE PERSONAL PROPERTY FOR USE OR RESALE IN THE FORM OF REAL ESTATE BY A BUILDER, CONTRACTOR, OR LANDOWNER; AND

(II) EXCEPT AS PROVIDED IN PARAGRAPH (3)(I) OF THIS SUBSECTION, USE OF TANGIBLE PERSONAL PROPERTY AS FACILITIES, TOOLS, TOOLING, MACHINERY, OR EQUIPMENT, INCLUDING DIES, MOLDS, AND PATTERNS, EVEN IF THE BUYER INTENDS TO TRANSFER TITLE TO THE PROPERTY BEFORE OR AFTER THAT USE.

(3) "RETAIL SALE" DOES NOT INCLUDE:

(I) A TRANSFER OF TITLE TO TANGIBLE PERSONAL PROPERTY AFTER ITS USE AS FACILITIES, TOOLS, TOOLING, MACHINERY, OR EQUIPMENT, INCLUDING DIES, MOLDS, AND PATTERNS, IF:

1. AT THE TIME OF PURCHASE, THE BUYER IS OBLIGATED, UNDER THE TERMS OF A WRITTEN CONTRACT, TO MAKE THE TRANSFER; AND

2. THE TRANSFER IS MADE FOR THE SAME OR GREATER CONSIDERATION TO THE PERSON FOR WHOM THE BUYER MANUFACTURES GOODS OR PERFORMS WORK; OR

(II) A SALE OF TANGIBLE PERSONAL PROPERTY IF THE BUYER INTENDS TO:

1. RESELL THE TANGIBLE PERSONAL PROPERTY IN THE FORM THAT THE BUYER RECEIVES OR IS TO RECEIVE THE PROPERTY;

2. USE OR INCORPORATE THE TANGIBLE PERSONAL PROPERTY IN A PRODUCTION ACTIVITY AS A MATERIAL OR PART OF OTHER TANGIBLE PERSONAL PROPERTY TO BE PRODUCED FOR SALE; OR

3. CONSUME THE TANGIBLE PERSONAL PROPERTY DIRECTLY AND PREDOMINANTLY IN A PRODUCTION ACTIVITY BY DESTROYING, USING UP, OR WEARING OUT THE PROPERTY, OTHER THAN THROUGH OBSOLESCENCE, TO THE EXTENT THAT THE PROPERTY CANNOT BE RENDERED FIT FOR FURTHER USE IN A PRODUCTION ACTIVITY, IF THE CONSUMPTION OCCURS WITHIN 1 YEAR AFTER THE PROPERTY IS FIRST USED IN A PRODUCTION ACTIVITY.

REVISOR'S NOTE: This subsection is new language derived without substantive change from former Art. 81, § 372(h) and the exclusion of some production activities in (i)(3) and the first through fourth sentences of § 324(f) and item (6), the first sentence of item (3), and the exclusion of some production activities in item (4) of the seventh sentence.

In paragraphs (1) through (3) of this subsection, the former alternative defined term "sale at retail" is deleted as redundant.