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# IRAS e-Tax Guide

## Treatment of Fixed Machinery under the Property Tax Act (Third Edition)



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### 1. Aim

- 1.1 This guide provides information on the treatment of fixed machinery for property tax purposes.

### 2. At a Glance

- 2.1 "Fixed machinery" refers to machinery that has been so affixed to the land or building that it has become a fixture. It is usually a large machine that is either held in place by building frames or is resting on its weight.
- 2.2 Under the common law, fixtures are part of the land and building and are hence subject to property tax under section 6(1) of the Property Tax Act ("the Act").
- 2.3 However section 2(3) of the Act provides that certain fixed machinery is not taxable.

### 3. Interpretation of Section 2(3) <sup>1</sup>

#### A. Definition of Section 2(3)

- 3.1 Section 2(3) of the Act reads as follows:

"In assessing the annual value of any premises in or upon which there is any machinery used for any of the following purposes:

- a) the making of any article or part thereof;
- b) the altering, repairing, ornamenting or finishing of any article; or
- c) the adapting for sale of any article,

the enhanced value given to the premises by the presence of such machinery shall not be taken into consideration, and for this purpose "machinery" includes the steam engines, boilers and other motive power belonging to that machinery."

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<sup>1</sup> Section 2(2) of the Property Tax Act (2005 Rev. Ed.) was renumbered as section 2(3) in the Property Tax Act 1960 which came into operation from 31 Dec 2021.

B. Section 2(3) applies to manufacturing machinery only

- 3.2 While section 2(3) seems to apply to all fixed machinery that is used for any one of the purposes specified in (a), (b), and (c), case law has clarified that section 2(3) excludes from annual value fixed machinery used in manufacturing, processing and other industrial purposes only. In *First DCS Pte Ltd v Chief Assessor and Anor* [2007] SGHC 82, the High Court noted that the intention of section 2(3) was to encourage investments in machinery for manufacturing, processing and other industrial purposes:

*"The question then arises: what was the Legislature's intention in excluding only certain kinds of machinery? Although no express statement in this regard may be found, it seems to be likely that the object behind [s 2(3)] was to encourage investments in plant and machinery for manufacturing, processing and other industrial purposes. As such, a distinction may be made between two separate classes of machinery:*

*(a) machines affixed to the land for manufacturing/processing/industrial purposes (i.e., machinery used for the purpose of making, altering, repairing, or ornamenting, finishing or adapting for sale of articles); and*

*(b) machines affixed to the land for non-manufacturing/processing/industrial purposes (i.e., machinery used for the purpose of storage or for the enhancement of the enjoyment of property).*

*The latter class would include escalators which become fixtures by virtue of their resting on their weight in the parts of the building specially constructed for them: People's Park Chinatown Development Pte Ltd v Schindler Lifts (S) Pte Ltd [1993] 1 SLR 591. The value of the property is enhanced owing to the presence of the escalators which make the property more accessible. Other examples of machinery that fall under the second class include lifts and air-conditioning units."*

- 3.3 The High Court Judge's interpretation was endorsed by the Court of Appeal in *Chief Assessor and Anor v First DCS Pte Ltd* [2008] SGCA 15. The Court of Appeal traced the history of section 2(3) to UK legislation. The terms "making", "altering" and "adapting for sale" were first used in UK legislation relating to the textile industry and subsequently to all factories. Considering this background to the historical development of the local legislation, the Court of Appeal held that the intent of section 2(3) was most likely to encourage investments in "manufacturing machinery".

- 3.4 In *Skyventure VWT Singapore Pte Ltd v. Chief Assessor and Comptroller of Property Tax* [2021] SGCA 40, the Court of Appeal affirmed that section 2(3) was to apply in the context of "manufacturing processes" only:

*"...the language adopted in [ss 2(3)(a) to 2(3)(c)] of the Act had been used to define a "manufacturing process" in 19<sup>th</sup> century English legislation for the protection of workers before being imported into local property tax legislation. This indicates that Parliament, in importing the aforesaid language, intended [s 2(3)] of the Act to incentivise the use of machinery for "manufacturing processes". Thus [ss 2(3)(a) to 2(3)(c)] of the Act should be interpreted in the context of a "manufacturing process"."*

- 3.5 Accordingly, fixed machinery in buildings such as lifts, air-conditioning units, escalators and fire safety installation that are not used for manufacturing, processing or industrial purposes ought not fall within the ambit of section 2(3). They constitute parts of the buildings that are taxable.

C. Section 2(3) applies to machinery directly involved in the manufacturing and processing activity

- 3.6 Fixed machinery used in a manufacturing plant or facility may be directly or indirectly involved in the manufacturing or processing activity. The Court of Appeal Judge had, in *Chief Assessor and Anor v First DCS Pte Ltd* [2008] SGCA 15, concluded that the machinery in section 2(3) should be confined to machinery or pieces of machinery directly involved in the making of any article, or the altering, repairing, ornamenting or finishing of any article, or the adapting for sale of any article; and exclude machinery or pieces of machinery used for purposes peripheral to those activities. The Court of Appeal Judge said:

*"...by expressly including "motive power belonging to that machinery" in the definition of "machinery", Parliament indicated that "machinery" would ordinarily not include such "motive power". The "motive power" element of a piece of machinery can be said to be peripheral to those elements used for the direct purpose of that machinery, which is the making, altering, adapting for sale, etc of an article. It follows that "machinery" in [s 2(3)] similarly does not include other elements used for purposes peripheral to the direct purpose of the machinery, such as element used for distribution and storage, where there is no express inclusion of those peripheral elements by means of an enlarging definition."*

- 3.7 Accordingly, 'machinery' in section 2(3) does not include machinery involved in the peripheral processes such as transportation, distribution, and storage of finished material, raw materials or utilities. Machinery used for the treatment of

solid, liquid or gaseous waste generated from the manufacturing process solely for the purpose of discharge is also deemed as peripheral machinery.

- D. "Article" in section 2(3) refers to matter which is intended to be sold or which is the subject matter of a sale of services to make, alter, repair, ornament, finish or adapt for sale the same

- 3.8 The 'machinery' in section 2(3) must be used to manufacture an article that is intended to be sold or which is the subject matter of a sale of services to make, alter, repair, ornament, finish or adapt for sale the same. In *Skyventure VWT Singapore Pte Ltd v. Chief Assessor and Comptroller of Property Tax* [2021] SGCA 40, the Court of Appeal held that for the indoor skydiving tourist attraction in question, the wind tunnel which altered airflow was not "machinery" for the purposes of section 2(3):

*"The skydivers had paid money to enjoy the adapted article, the property in which remained at all times with the taxpayer. There was therefore no "sale" of the "adapted article" as such. The adapting of the aerodynamic effect of the airflow was therefore not an "adapting for sale" within the meaning of [s2(3)(c)] of the Act – it was merely the means by which the skydivers could enjoy the experience of skydiving and was, in a manner of speaker, one step removed from what the customers in First DCS (CA) desired as well as received."*

- E. Section 2(3) does not apply to buildings/fixtures

- 3.9 Buildings and fixtures are taxable. They should not qualify as machinery under section 2(3) as they are used or primarily used to provide the necessary setting or environment for the manufacturing activity to take place. This position was affirmed by the Court of Appeal Judge in *Pan United-Marine Ltd v Chief Assessor* [2008] SGCA 21 ("*Pan-United*"). Any structure that is defined as a building cannot simultaneously be considered a machinery, as held by the majority in *Pan-United*:

*"Finally, we note that our holding on this particular issue is also entirely consistent with our earlier holding that the floating dry docks are "buildings" within the meaning of the Act. Indeed, it would be both semantically as well as substantively odd (or even inconsistent) to describe a structure as being, at one and the same time, both a "building" as well as "machinery"."*

- 3.10 Examples of buildings and fixtures include floating dry docks, stacks or chimneys used for discharging fumes and exhausts from plants, hoppers, silos, pipe-racks, etc.

### 4. Fixed Machinery That Is Not Taxable

4.1 Generally, manufacturing or processing machinery directly used for the making of any article for sale, or the altering, repairing, ornamenting or finishing of any article for sale, or the adapting for sale of any article is not taxable.

4.2 Examples of such manufacturing machinery that are not taxable include:

- i. Blending Tanks
- ii. Reactor Vessels in petrochemical or pharmaceutical plants
- iii. Dryers or Dry Tower in milk powder plants
- iv. Turbines, heat exchangers, transformers and switchgears in power plants
- v. Chillers, condensers and heat exchangers in District Cooling Plant

4.3 Machinery belonging to and providing motive power to the manufacturing machinery is also not taxable. Such machinery includes the steam engines, boilers, or air compressors belonging to and providing motive power to the manufacturing machinery.

### 5. Fixed Machinery That Is Taxable

#### A. Service Machinery

5.1 Service machinery is machinery that constitutes parts of the building facilities, and used for the purposes of providing essential building services for the safety and enjoyment of the occupants and/or proper functioning of the building. Where the buildings are let, the presence of such machinery would have been reflected in the rental value of the buildings.

5.2 Examples of service machinery include:

- i. Lighting systems
- ii. Mechanical and electrical installations
- iii. Electricity generation and supply systems
- iv. Air-conditioning, ventilation, or cooling / heating systems
- v. Air purifying systems
- vi. Fire protection systems
- vii. Solar panels
- viii. Lightning protection systems
- ix. Building security and alarm systems
- x. Pumps and sewage installations
- xi. Water supply and distribution systems



- xii. Escalators, elevators, and all other people moving systems

### B. Machinery performing peripheral functions

5.3 Such machinery is not directly involved in the manufacturing and processing activities. They may provide storage for goods or provide conduits for moving goods, or they could be “service machinery” to the manufacturing machinery to protect the latter from fire, overheating or other hazards.

5.4 Examples of machinery used for purposes peripheral to the direct making of any article, or the altering, repairing, ornamenting or finishing of any article, or the adapting for sale of any article, include:

- i. Transportation and distribution systems including pipelines for conveying finished articles, raw materials, fuel or utilities
- i. Weighbridges for measuring raw materials or finished articles
- ii. Cold rooms for preservation of finished articles or raw materials
- iii. Clean rooms providing particle/pathogen-free or controlled environment
- iv. Ventilation, heating or cooling systems to cool and prevent hazards in manufacturing machinery
- v. Overhead cranes and travelling cranes

### 6. Caveat

6.1 The examples of taxable and non-taxable machinery in this guide are for illustration only. Whether or not a machinery or piece of machinery is taxable or non-taxable will depend on the actual function that it performs rather than its name, label or descriptor.

### 7. Contact Information

For enquiries on this e-Tax Guide, please contact the Property Tax Division at [www.iras.gov.sg](http://www.iras.gov.sg) (select “Contact Us”).