



November 27, 2018

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, IA 50306

Re: Notice of Intended Action on ARC 4109C

Mr. Reilly:

The Iowa Association of Business and Industry (ABI) is pleased to have the opportunity to comment on ARC 4109C related to the definition of manufacturer. ABI is a statewide membership organization that represents more than 1,500 member companies, employing more than 330,000 Iowans in all industries. ABI was founded in 1903 as the Iowa Manufacturing Association and the association's policies still reflect our advocacy and support of Iowa manufacturers. In review of ARC 4109C, ABI members have brought forward a few questions and suggested improvements to the rule that we hope the Iowa Department of Revenue will consider.

1. Item 3 of the rule contains an example related to construction contracting. The example states: "Regardless of the portion of Company A's total revenue generated from subcontracted road construction work, Company A is engaged in "construction contracting" and cannot claim the exemption..." There are several scenarios where this example could conflict with the law. 423.3(47)d defines who is a manufacturer and who is commonly understood as a manufacturer. However, because of the provided example in the rule, if a company commonly understood as a manufacturer engages in a construction contract once, the company would lose the manufacturing exemption.

One example where this could affect Iowa manufacturers is if a manufacturer is asked to go to the construction site to help with installation of the product. Although the majority of the work is done at the manufacturing plant, manufacturing the product, the rule as written would exclude the company from the manufacturing exemption. We respectfully request the Department include the additional language from the law, incorporate a test or presumption in the rule, eliminate the example and/or provide additional clarity with this portion of the rule, to conform with the law passed by the Legislature.

2. Item 5 defines rebuttable presumption as a new method to determine whether a company is a manufacturer or retailer. ABI supports the comments by the Iowa Taxpayers Association requesting to include additional factors besides physical location when making this



*Iowa Association of
Business and Industry*

determination. ABI agrees four additional factors that would be helpful are: if the floor space is predominantly devoted to the manufacturing process; if the number of employees or employee hours is predominantly devoted to the manufacturing process; if the wages and salaries of employees working at the establishment is predominantly devoted to the manufacturing process; if the cost of operating the facility is predominantly attributable to the manufacturing process.

Thank you for your work on the rules to implement SF 2417 and to provide clarity so that taxpayers can comply with the law. ABI appreciates the opportunity to comment on this rule. Please, let me know if you have any questions about the comments or would like more details on the information provided above.

Respectfully submitted,

Nicole Crain
Senior Vice President, Public Policy
Iowa Association of Business and Industry
515-235-0566
ncrain@iowaabi.org