



# This Week in State Tax (TWIST)

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## Kentucky: State High Court Holds that Purchases are Exempt Supplies, Not Taxable Replacement Parts

The Kentucky Supreme Court recently addressed the distinction between exempt supplies and taxable repair parts. Under Kentucky law, “supplies” purchased by a manufacturer for use in the manufacturing process are tax exempt, but “repair, replacement, or spare parts” are not. To be classified as a “supply” an item must be tangible personal property, be consumed in manufacturing or industrial processing, be used directly in manufacturing or industrial processing, and have a useful life of less than one year. “Repair, replacement or spare parts” are tangible personal property used to maintain, restore, mend, or repair machinery or equipment. The Kentucky Supreme Court recently concluded that an aluminum manufacturer’s purchases qualified as exempt supplies. In the court’s view, the plain language of the definition of repair, replacement and spare parts restricted the part’s use to maintaining, restoring, mending or repairing the actual manufacturing machinery or equipment. As such, tangible personal property that maintained the “manufacturing process,” but did not actually replace an existing part of the permanent machinery, did not fit within the definition of a taxable repair part. The court concluded that the question as to whether tangible personal property is a tax-exempt supply or a taxable part, if all the other characteristics of a tax-exempt supply are met, may be resolved by whether the tangible personal property has the characteristics of being consumed in the manufacturing process and having a useful life of less than one year. “With the conclusion that specific tangible personal property is a supply, its defining characteristics exclude it from being categorized as a repair, replacement or spare part, and the statute cannot be construed in an absurd, inconsistent manner to allow the same tangible personal property to be viewed also as a part.” Please contact [Greg Ruud](#) or [Dave Perry](#) with questions on *Century Aluminum of Kentucky, GP v. Dep’t of Revenue*.



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