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STATE TAXATION

PERSONAL PROPERTY. The plaintiff operated a business which reconstituted concentrated liquid and dry fruit and tea mixtures into juice and tea drinks for distribution to retailers. The plaintiff also processed milk for distribution. The juice and tea reconstitution process involved adding sugars and pasteurized water to the concentrates in machines designed to control the acid and bacteria in the process. The plaintiff argued that it was exempt, as a manufacturer, from the local Merchantile Tax and Business Privilege Tax assessed by the township in which the plaintiff's facility was located because the plaintiff took inedible products and transformed them into

consumable products.. The plaintiff also argued that because it was a milk handler and subject to the state milk marketing law, the milk marketing law preempted the local tax. The court held that the plaintiff's juice and tea reconstitution process was not a manufacturing activity because the adding of water and sugar effected only a superficial change in the original materials. The court noted that the concentrates were similar to products sold to consumers who added the sugar and water. The court also held that the milk marketing law did not preempt the tax as to the non-milk production portion of the plaintiff's facility. **Township of Muhlenberg v. Clover Farms Dairy Co., 665 A.2d 544 (Pa. Cmwlth. 1995).**

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