



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

September 6, 2005

MEMORANDUM

To: Representative Ainsworth

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2005 AB-646** (LRB 05-3555/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

September 1, 2005

TO: Joseph Kreye
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on Assembly Bill 646 – Tax Credit for the Sales and Use Tax Paid on the Purchase of Tangible Personal Property Used in Farming

The statutory language indicates that the business of farming includes dairy farming, agriculture, horticulture, floriculture, and custom farming services. Although these terms are defined in the administrative rules for purposes of the sales and use tax law, in order to administer the income and franchise tax credit, definitions need to be included in sections 71.07(5e), 71.28(5e), and 71.47(5e). The department suggests the following definitions:

- “Farming” means the business of producing food products or other useful crops by tilling and cultivating the soil or by raising cattle, sheep, llamas, poultry, domesticated rabbits, or other animals which produce a food product or which are themselves a food product. “Farming” includes raising earthworms, pheasants, foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit, caracul, and bees; producing honey products by a beekeeper of 50 or more hives; commercial raising of fish for food; commercial breeding and raising of horses and llamas for sale; and raising ginseng, mushrooms, and sod. “Farming” does not include home gardening and other similar noncommercial activities; breeding or raising dogs, cats, other pets, or animals intended for use in laboratories; operating sporting or recreational facilities, such as riding stables or shooting preserves; operating stockyards, slaughterhouses, or feed lots; lumbering and logging, and pulpwood and sawmill operations; milling and grinding grain; and preparing sausage, canned goods, jellies, juices, or syrup.
- “Dairy farming” means the business of feeding and raising cattle and other milk producing animals, but does not include operations such as pasteurizing, homogenizing, or making butter, cheese, or ice cream.
- “Floriculture” means the business of producing flowers, Christmas trees or other decorative trees, plants, or shrubs, including such operations as greenhouses.

- “Horticulture” means the business of producing vegetables, vegetable plants, fruits, and nursery stock, including the operation of commercial nurseries and orchards but not businesses which hold stock for purposes other than propagation or growth. “Horticulture” does not include the business of servicing plants owned by others; the raising of trees as timber; or lumber or sawmill operations.
- “Custom farming services” means the performance of an activity, defined as farming, for a farmer for a fee. The fee may include a cash payment, a share of the harvest, or other valuable consideration.
- “Used exclusively” means used to the exclusion of all other uses except for other use not exceeding 5% of total use.

The proposed legislation makes no provision for the funding of the costs involved in administering the activities required. If the author wishes to provide funding, appropriation language could be developed and costs allocated in the following manner:

	<u>Chapter 20</u>	<u>Amount</u>
one-time	s. 20.566 (3) (a)	\$ 21,600

If you have any questions regarding this technical memorandum, please contact Kirstin Nelson at (608) 261-8984; for administrative costs contact Julie Feavel at (608) 267-9892.

cc: Representative Ainsworth