

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/20/98**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Frank Lasee (608) 266-9870**

By/Representing: **Mark**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Sales and use tax exemption for solar powered and wind powered products

**Instructions:**

Create sales and use tax exemption for solar powered and wind powered products/projects. Including photo voltaics

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 11/20/98	ygeller 11/20/98	hhagen 11/23/98	_____	lrb_docadmin 11/23/98		S&L Tax
/2	shoveme 02/25/99	ygeller 02/25/99	martykr 02/25/99	_____	lrb_docadmin 02/25/99	lrb_docadmin	S&L Tax

FE Sent For:

*G 06-10-99*

<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/20/98**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Frank Lasee (608) 266-9870**

By/Representing: **Mark**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Sales and use tax exemption for solar powered and wind powered products

**Instructions:**

Create sales and use tax exemption for solar powered and wind powered products/projects. Including photo voltaics

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 11/20/98	ygeller 11/20/98	hhagen 11/23/98	_____	lrb_docadmin 11/23/98		S&L Tax
/2	shoveme 02/25/99	ygeller 02/25/99	martykr 02/25/99	_____	lrb_docadmin 02/25/99		S&L Tax

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: 11/20/98

Received By: shoveme

Wanted: As time permits

Identical to LRB:

For: Frank Lasee (608) 266-9870

By/Representing: Mark

This file may be shown to any legislator: NO

Drafter: shoveme

May Contact:

Alt. Drafters:

Subject: Tax - sales

Extra Copies:

**Topic:**

Sales and use tax exemption for solar powered and wind powered products

**Instructions:**

Create sales and use tax exemption for solar powered and wind powered products/projects. Including photo voltaics

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 11/20/98	jgeller 11/20/98	hhagen 11/23/98	_____	lrb_docadmin 11/23/98		S&L Tax

*Handwritten notes:*  
1/2 2/25 jlg  
km 2/25  
HA 2/25  
km 2/25

FE Sent For:

<END>

**1999 DRAFTING REQUEST**

**Bill**

Received: **11/20/98**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Frank Lasee (608) 266-9870**

By/Representing: **Mark**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies: *MES /*

**Topic:**

Sales and use tax exemption for solar powered and wind powered products

**Instructions:**

Create sales and use tax exemption for solar powered and wind powered products/projects. Including photo voltaics

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme	1-11-20-98 UG					
11	MES 11/20		# 11/23	# 11/23			

FE Sent For:

<END>



5/9

**1999 BILL**

A NOTE

1 AN ACT ...; relating to: exempting from the sales tax and the use tax products  
2 that are solar powered or wind powered.

***Analysis by the Legislative Reference Bureau***

This bill creates a sales tax and a use tax exemption for a product whose power source is wind energy or direct radiant energy received from the sun.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

3 SECTION 1. 77.54 (44)<sup>x</sup> of the statutes is created to read:

4 77.54 (44) The gross receipts from the sale of and the storage, use or other  
5 consumption of a product whose power source is wind energy or direct radiant energy  
6 received from the sun.

7 SECTION 2. Effective date.

**BILL**

1           (1) This act takes effect on the first day of the <sup>✓</sup>2nd month beginning after  
2 publication.

3

(END) ✓

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0982/1dn

MES.....:i:...

js

Please review this draft carefully to ensure that it meets your intent. As drafted, I believe that it would apply to things such as sail boats. Is this your intent? Do you want to limit the applicability of the exemption for wind powered products to a "wind energy system" which converts wind energy into usable forms of energy? See s. 66.032 (1) (m). See also s. 66.032 (1) (j) and (k) for definitions related to solar energy. You may also want the department of revenue to review this draft to determine whether the language relating to solar powered and wind powered products is specific enough for proper enforcement.

Marc E. Shovers  
Senior Legislative Attorney  
266-0129

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0982/1dn  
MES:jlg:hmh

Monday, November 23, 1998

Please review this draft carefully to ensure that it meets your intent. As drafted, I believe that it would apply to things such as sail boats. Is this your intent? Do you want to limit the applicability of the exemption for wind powered products to a "wind energy system" which converts wind energy into usable forms of energy? See s. 66.032 (1) (m). See also s. 66.032 (1) (j) and (k) for definitions related to solar energy. You may also want the department of revenue to review this draft to determine whether the language relating to solar powered and wind powered products is specific enough for proper enforcement.

Marc E. Shovers  
Senior Legislative Attorney  
266-0129



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0982/1dn  
MES:jlg:hmh

2H1

Monday, November 23, 1998

Note to file

Please review this draft carefully to ensure that it meets your intent. As drafted, I believe that it would apply to things such as sail boats. Is this your intent? Do you want to limit the applicability of the exemption for wind powered products to a "wind energy system" which converts wind energy into usable forms of energy? See s. 66.032 (1) (m). See also s. 66.032 (1) (j) and (k) for definitions related to solar energy. You may also want the department of revenue to review this draft to determine whether the language relating to solar powered and wind powered products is specific enough for proper enforcement.

Marc E. Shovers  
Senior Legislative Attorney  
266-0129

I talked to  
Mark wadium on  
1/12/99 & he said  
he will talk to some  
vendors to try & develop  
language that exempts  
what they want exempted  
but doesn't sweep too  
broadly

201  
202  
203

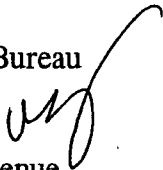


**CORRESPONDENCE/MEMORANDUM**

**STATE OF WISCONSIN**  
**Wisconsin Department of Revenue**

**Date:** December 10, 1998

**To:** Faith Russell  
Legislative Fiscal Bureau

**From:** Vicki Gibbons   
Department of Revenue

**Subject:** Sale of Wind and Solar Equipment Used to Generate Electricity

Based on further review of department interpretations in the area of manufacturing, information I had previously provided to you by telephone and confirmed by e-mail on December 4, 1998, regarding the sales and use tax of equipment used to generate wind and solar power, specifically solar photovoltaic cells, was incorrect as it applies to residential and certain commercial installations. Information I was relying on was out-of-date and did not take into account subsequent positions by the department regarding manufacturing.

I had previously stated that an individual or business could purchase such equipment without Wisconsin sales or use tax because such equipment is used in manufacturing electricity. That is not correct. Persons who are engaged in manufacturing electricity (utilities), or who are engaged in some manufacturing activity and produce electricity primarily to support that manufacturing operation, may purchase the equipment without tax because the equipment is used exclusively to manufacture electricity. However, individuals not engaged in any business, and businesses who use the electricity produced by the equipment other than in a manufacturing operation (e.g., grocery store, office complex, etc.), are not considered to be engaged in manufacturing when producing electricity. Therefore their purchase of the equipment is not exempt from sales tax.

The following describes that proper sales and use tax treatment:

1. Sold Installed

If the equipment is sold and installed by a contractor in a residential setting or for a business not engaged in manufacturing, the equipment is real property when installed. The contractor installing the equipment is subject to Wisconsin sales or use tax on its purchase of the equipment. The charge to the customer (labor and materials) is not subject to Wisconsin sales or use tax because there is no provision in the sales and use tax law that

Faith Russell  
December 10, 1998  
Page 2

allows imposition of tax on the sale of real property. Note: The contractor may include in its material charge the tax it was required to pay on its purchase of the equipment.

If the equipment is sold and installed for a business who uses the equipment to generate electricity that will primarily be used in running manufacturing machinery, the equipment, except its concrete foundation, retains its character as tangible personal property when installed. The contractor may purchase the equipment, except that materials used in constructing the foundation, without tax for resale. Since the property is used exclusively to manufacture electricity, the charge by the contractor (labor and materials) is exempt from Wisconsin sales or use tax.

## 2. Sold Uninstalled

If the equipment is sold uninstalled to a person not engaged in manufacturing, the sale of the equipment is subject to Wisconsin sales or use tax. If sold to a manufacturer, the sale of the equipment is exempt from tax.

I apologize for the incorrect information I gave you previously. If I can be of further assistance, please contact me.

Cc: Marc Shovers  
Legislative Reference Bureau



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

December 7, 1998

**TO:** Representative Frank Lasee  
Room 312 North, State Capitol

**FROM:** Faith Russell, Fiscal Analyst

**SUBJECT:** Sales Tax Exemption for Equipment for Wind and Solar Power

You requested information about the fiscal impact of a sales tax exemption for equipment used to generate wind and solar power, specifically solar photovoltaic cells and solar hot water systems. This office is in the process of gathering data for the purpose of estimating annual sales of this type of equipment and associated sales tax. In the meantime, this memo addresses the applicability of the sales tax exemption for machinery and equipment to the sale of equipment used to generate wind and solar power.

Current law provides a sales and use tax exemption for machines and specific processing equipment used by manufacturers in manufacturing tangible personal property. The critical issues in determining whether an item qualifies for this exemption are whether the item is a machine or processing equipment, whether the machine produces tangible personal property and whether the owner of the machine is a manufacturer.

According to the Department of Revenue, wind turbines and photovoltaic cells, except their concrete foundations, are considered machines that manufacture a tangible product. The product that the machines produce is electricity, which is specifically included in the statutory definition of tangible personal property with respect to the sales tax. The Department considers users of such machines that produce electricity to be "manufacturers" for the purpose of this exemption.

Based on this information, wind turbines and photovoltaic solar systems are currently eligible for the manufacturing and equipment sales tax exemption. However, contacts with vendors of wind and solar equipment make it clear that most vendors are not aware that the equipment is exempt from the sales tax.

Unlike wind turbines and photovoltaic cells, solar hot water systems do not produce electricity. These systems typically collect the sun's thermal energy in a non-freezing fluid and

transfer the heat to potable water through a heat exchanger. Solar hot water systems are not considered to produce a tangible product, and are therefore not eligible for the manufacturing and equipment sales tax exemption.

I hope this information is useful. A follow-up memo will be provided estimating annual sales of wind and solar equipment and associated sales tax as soon as the data is available. In the meantime, please contact me if you have any questions.

FR/lah



RMB

1999 BILL

<sup>no</sup> # if one product produces at least 200 watts of alternating current

1  
2

<sup>regen</sup> ✓  
AN ACT to create 77.54 (44) of the statutes; relating to: exempting from the sales tax and the use tax <sup>certain</sup> products that are solar powered or wind powered.

*Analysis by the Legislative Reference Bureau* <sup>, other than an uninterruptible power source for computers,</sup>  
This bill creates a sales tax and a use tax exemption for a product whose power source is wind energy or direct radiant energy received from the sun.  
This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.  
For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

3  
4  
5  
6  
7

SECTION 1. 77.54 (44) of the statutes is created to read:

77.54 (44) The gross receipts from the sale of and the storage, use or other consumption of a product whose power source is wind energy or direct radiant energy received from the sun.

SECTION 2. Effective date.

, if the product produces at least 200 watts of alternating current, except that the exemption under this subsection does not apply to an uninterruptible power source that is designed primarily for computers





**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 2/25/99

**To:** Representative F. Lasee

**Relating to LRB drafting number:** LRB-0982

**Topic**

Sales and use tax exemption for solar powered and wind powered products

**Subject(s)**

Tax - sales

1. **JACKET** the draft for introduction \_\_\_\_\_  
in the **Senate** \_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.  
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.  
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney  
Telephone: (608) 266-0129