

1999 DRAFTING REQUEST

Bill

Received: **08/31/1999**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Lorraine Seratti (608) 266-3780**

By/Representing: **Tim Fiocchi**

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

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - sales**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

sales tax exemption on tangible personal property used in agricultural production

Instructions:

See Attached

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	jkreye 09/02/1999	ygeller 09/08/1999	hhagen 09/08/1999	_____	lrb_docadmin 09/08/1999		S&L Tax
	jkreye 09/22/1999	ygeller 09/22/1999		_____			
/2	jkreye 09/22/1999	ygeller 09/23/1999	jfrantze 09/22/1999	_____	lrb_docadmin 09/22/1999		S&L Tax
	jkreye 09/23/1999			_____			
/3			jfrantze 09/23/1999	_____	lrb_docadmin 09/23/1999	lrb_docadmin	S&L Tax

FE Sent For:

10/4/99

<END>

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/2		13 9/23 jlg	jfrantze 09/22/1999	_____	lrb_docadmin 09/22/1999		S&L Tax

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FE Sent For:

1/2 9/22 jlg 8/9/22 8/6/KM
 <END>
 9/22

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1/?	jkreye	1/9/99 JG	1/11/99 JG	1/14/99 KM			

FE Sent For:

<END>

B I L L
REQUEST FORM

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

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.

Use this form only for **BILL** drafts. Attach more pages if necessary.

Legislator, agency or other body requesting this draft:

Rep. Seratti

Date: _____

Person submitting request (name, phone number):

Tim Fiochi 6-3780

Persons to contact for questions about this draft (names, phone numbers):

Tim Fiochi 6-3780

Describe the problem, including any helpful examples.

How do you want to solve the problem?

Please draft a bill to: Exempt all tangible personal property used in agricultural production from sales tax.

See attached for more info.

Please attach a copy of any correspondence or other material that may help us.

If you know of any statute sections that might be affected, list them or provide a marked-up (not retyped) copy. _____

You may attach a marked-up (not retyped) copy of any LRB draft, or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67): _____

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: _____

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here: _____

Yes No





Legislative Fiscal Bureau

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

August 26, 1999

TO: Representative Lorraine Seratti
Room 18 North, State Capitol

FROM: Faith Russell, Fiscal Analyst

SUBJECT: State Sales Tax on Consumables in Agricultural Production

At your request, this memorandum provides information on various proposals to expand the current sales tax exemptions related to agricultural production. Specifically, you asked for estimates of the following: (a) the cost to the state of treating agribusiness identically to manufacturing in regards to the sales tax on consumables; (b) the cost to the state of exempting from the sales tax all non-durable goods consumed in agribusiness; and (c) the cost to the state of broadening the sales tax exemption for farm livestock medicine to include products such as bovine growth hormone, injectable vitamins and hormone stimulant implants. For the purposes of this memorandum, the term "agribusiness" is assumed to be interchangeable with "farming" as used in the sales tax statutes.

Current Law

Under current law, the 5% state sales and use tax is imposed on all sales of tangible personal property, unless specifically exempted, and on a number of services identified in the statutes. Current law provides sales tax exemptions for the following items used in agricultural production: (a) farm tractors and machines, including parts, used exclusively and directly in the business of farming; (b) seeds, plants, feed, fertilizer, pesticides and related chemicals, livestock, wire and twine, animal bedding, milkhous supplies, plastic sheeting and certain containers used in farming; (c) medicine used on farm livestock, not including workstock; (d) animal tags and standard milk samples sold by the Department of Agriculture, Trade and Consumer Protection; (e) livestock semen used for artificial insemination; (f) electricity sold from November through April for farm use; and (g) fuel used in farming. Veterinary medical and hospitalization services are not taxable services in Wisconsin.

With respect to consumables used in manufacturing, current law provides a sales tax exemption for property that becomes an ingredient or component or that is consumed or destroyed in the manufacturing process, except for fuel and electricity (however, an income tax credit is available for sales taxes paid on fuel and electricity used in manufacturing).

Fiscal Effect of Expanding the Current Law Sales Tax Exemptions Related to Farming

Data on farm production expenditures in Wisconsin is available through the 1997 Census of Agriculture by the U.S. Department of Agriculture. The Census provides data for the following categories of production expenses that are relevant for the sales tax: (a) livestock and poultry purchased; (b) feed purchased; (c) seeds, bulbs, plants and trees; (d) commercial fertilizer; (e) agricultural chemicals; (f) petroleum products; (g) electricity; (h) repair and maintenance; (i) custom-work, machine and equipment rental; and (j) all other. The Census data is the most comprehensive source identified for data on farm production expenditures by the Wisconsin Department of Agriculture, Trade and Consumer Protection and the Wisconsin Department of Commerce. The following estimates are derived primarily from the Census data.

Effect of Sales Tax Exemption for Consumables Used in Agribusiness. You asked for an estimate of the cost of treating agribusiness identically to manufacturing in regards to the sales tax on consumables. The sales tax exemption for consumables used in manufacturing is interpreted in administrative rules of the Department of Revenue. As the administrative rules interpreting the manufacturing exemption flow directly from the definition of the term "manufacture," it is not possible to provide an estimate of the effect of an identical exemption for agriculture. In addition, the available data on farm production expenditures is not sufficiently detailed to distinguish the costs of specific items that would and would not be exempt under the manufacturing guidelines (examples provided of non-exempt items under the manufacturing exemption include hand tools, saw blades and similar "non-consumables"). Similarly, data of sufficient detail to estimate the cost of exempting all non-durable goods used in agribusiness from the sales tax is not available.

However, based on the Census information, it is possible to project the fiscal effect of exempting from the sales tax all tangible personal property used in agricultural production in Wisconsin. Such an estimate requires an assumption about the percentage of expenditures in the "all other" category in the Census data that are currently taxable. While a precise figure is not available, based on the current sales tax exemptions and discussions with industry representatives, it seems reasonable to assume that 10% to 20% of expenditures that would fall under "all other" are currently subject to the sales tax. At the 10% level, it is estimated that a sales tax exemption for all tangible personal products used in agricultural production would reduce general fund tax collections by \$5.0 million annually. At the 20% level, it is expected that sales tax collections would be reduced by \$7.5 million per year. While it is likely that the annual fiscal effect of a sales tax exemption for all currently taxable tangible personal property would be \$5.0 to \$7.5 million, it should be noted that the effect would be smaller or larger if the proportion of currently taxable sales under the "all other" category falls outside the 10% to 20% range.

The \$5.0 million to \$7.5 million estimate includes the cost of expanding the current law exemption for electricity sold from November through April for farm use to electricity sold for use in farming at any time of the year. It is estimated that the expansion of the exemption for electricity to the entire year would reduce general fund revenues by approximately \$2.2 million per year. Therefore, the cost of expanding the sales tax exemptions for farming to include all tangible personal property, net of the expansion of the electricity exemption, is estimated at \$2.8 million to \$5.3 million per year.

In addition, because the optional county sales tax and the Milwaukee Brewers' District sales tax are "piggy-backed" on the state sales tax, it is estimated that an exemption for all tangible personal property used in agricultural production would reduce such local tax collections by \$360,000 to \$530,000 per year. This range assumes that the state sales tax effect would be a reduction of \$5.0 million to \$7.5 million annually. Excluding the expansion of the electricity exemption, the local effect would be a reduction of \$200,000 to \$380,000 annually.

Effect of Sales Tax Exemption for Bovine Growth Hormone and Similar Products. Based on information provided by industry sources, it is estimated that expanding the sales tax exemption for farm livestock medicine to include bovine growth hormones, injectable vitamins and hormone growth stimulant implants would reduce state sales tax collections by approximately \$1.2 million annually. It is expected that this proposal would reduce local sales tax collection by approximately \$80,000 per year. The figures for the state and local effects of exempting bovine growth hormone and similar products from the sales tax are included in the estimates provided of the effect of exempting all tangible personal property used in farming.

I hope this information is useful. Please let me know if you have additional questions.

FR/sas

DAIRY 2020 INITIATIVE

SALES AND USE TAX COMPARISON OF KEY DAIRY STATES

	CALIFORNIA	IDAHO	ILLINIOS	IOWA	MICHIGAN	MINNESOTA	NEW YORK	PENNSYLVANIA	TEXAS	WASHINGTON	YES RESPONSES	WISCONSIN
Does your state provide sales and use tax exemptions to persons engaged in farming?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	100%	Yes
Do the farming exemptions require exclusive use in farming?	Yes	No	No	No	Yes	No	No	No	Yes	Yes	40%	Yes
Do the farming exemptions require direct use in farming?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	100%	Yes
Wisconsin law excludes from exemption machines that are attached to, fastened to, or built into real property. Does your state have a similar exclusion?	No	Yes	No	Yes	Yes	No	Yes	No	Yes	No	50%	Yes
Are sales of the following property sold to persons engaged in farming exempt from sales or use tax?												
Calf stalls (portable)	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	70%	No
Cow mats	No	Yes	No	Yes	Yes	No	Yes	Yes	Yes	No	60%	No
Nonpowered waterers	No	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	No	70%	No
Syringes and syringe needles	No	No	No	Yes-1	Yes	Yes-2	Yes	Yes	Yes	No	60%	No
Injectable vitamins	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	90%	No
Bovine growth hormone	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	90%	No
Hormone growth stimulant implants	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	90%	No
Lubricants and fluids for farm machines	No	Yes	No	No	Yes	Yes	Yes	Yes	Yes	No	60%	No
1998 - Percent of national milk production	17.53%	3.66%	1.35%	2.43%	3.42%	5.89%	7.46%	6.89%	3.55%	3.38%	55.56%	14.51%
1998 - National milk production ranking	1	6	16	13	8	5	3	4	7	9		2

9-2-99

Spoke to Tim in Serratti's office

10 AM

▷ leave out the "electricity" and "medicines" component for now.

Tim is working with someone from

Commerce to fashion a definition for agricultural/livestock "medicines"



may or may not add to a future draft

6/6/04
Faith Russell 7-7597





State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3537/2

JK:.....

RMR

JG

m 9-2-99

D-N

gen'

1 AN ACT ...; relating to: a sales tax and use tax exemption on tangible personal
2 property used in the business of farming. ✓

Analysis by the Legislative Reference Bureau

Under current law, tractors and other machines that are used for farming are exempt from the sales tax and the use tax. Under current law, a machine that is used for farming is, generally, not exempt from the sales tax and the use tax if the machine is attached to or becomes part of real property, regardless of the extent to which the machine is used in the business of farming.

Under this bill, ~~any~~ tangible personal property that is used for farming is exempt from the sales tax and the use tax, regardless of whether the tangible personal property is attached to or becomes part of real property.

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 (3) (a) [✓] of the statutes is amended to read:
4 77.54 (3) (a) The gross receipts from the sales of and the storage, use or other
5 consumption of ~~tractors and machines, including accessories, attachments and parts~~

BILL**SECTION 1**

1 therefor, tangible personal property that is ✓ used exclusively and directly in the
2 business of farming, including dairy farming, agriculture, horticulture, floriculture
3 and custom farming services, but excluding automobiles, trucks, and other motor
4 vehicles for highway use; ~~excluding personal property that is attached to, fastened~~
5 ~~to, connected to or built into real property or that becomes an addition to, component~~
6 ~~of or capital improvement of real property and excluding tangible personal property~~
7 ~~used or consumed in the erection of buildings or in the alteration, repair or~~
8 ~~improvement of real property, regardless of any contribution that that personal~~
9 ~~property makes to the production process in that building or real property and~~
10 ~~regardless of the extent to which that personal property functions as a machine~~
11 electricity. ✓

12 **SECTION 2.** 77.54 (3) (b) 1. ~~of the statutes is repealed.~~ ✗

13 **SECTION 3.** 77.54 (3) (b) 2. ~~of the statutes is repealed.~~ ✗

14 **SECTION 4.** 77.54 (3) (b) 2m. ~~of the statutes is created to read:~~ ✗

15 77.54 (3) (b) 2m. Notwithstanding s. 77.51 (20), ✓ “tangible personal property”
16 includes tangible personal property that is fastened to, connected to or built into real
17 property.

18 **SECTION 5.** 77.54 (3) (c) ~~of the statutes is repealed.~~ ✗

19 **SECTION 6. Effective date.**

20 (1) This act takes effect on the first day of the ✓ 2nd month beginning after
21 publication.

22 (END)

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

1
LRB-35377dn

JK: x...

September 2, 1999

new
date

JLg

Representative Seratti:

Please review this draft carefully to ensure that it is consistent with your intent. Based on my conversation with Tim Fiocchi, this bill does not affect the sales tax and use tax exemptions for fuel and electricity used in farming. The bill also does not affect the sales tax and use tax exemptions for livestock medicines. If you have any questions, please contact me.

current

current

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

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

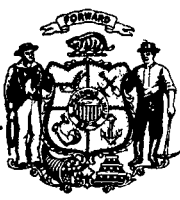
LRB-3537/1dn
JK:jlg:hmh

September 8, 1999

Representative Seratti:

Please review this draft carefully to ensure that it is consistent with your intent. Based on my conversation with Tim Fiocchi, this bill does not affect the current sales tax and use tax exemptions for fuel and electricity used in farming. The bill also does not affect the current sales tax and use tax exemptions for livestock medicines. If you have any questions, please contact me.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us



1999 BILL

SOON
in 9-22-99

Regen

1 AN ACT to repeal 77.54 (3) (b) 1., 77.54 (3) (b) 2. and 77.54 (3) (c); to amend 77.54
2 (3) (a); and to create 77.54 (3) (b) 2m. of the statutes; relating to: a sales tax
3 and use tax exemption on tangible personal property used in the business of
4 farming.

Analysis by the Legislative Reference Bureau

Under current law, tractors and other machines that are used for farming are exempt from the sales tax and the use tax. Under current law, a machine that is used for farming is, generally, not exempt from the sales tax and the use tax if the machine is attached to or becomes part of real property, regardless of the extent to which the machine is used in the business of farming.


Under this bill, tangible personal property that is used for farming is exempt from the sales tax and the use tax, regardless of whether the tangible personal property is attached to or becomes part of real property.

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:

Under the bill, tangible personal property that is consumed or loses its identity in the business of farming is also exempt from the sales tax and the use tax.

Date: September 22, 1999.
To: Tom Ourada
From: Mike Hinnendael 
Subject: LRB-3537/1; Farm Sales and Use Tax Exemption

I am sorry I am unable to attend today's meeting on the proposed farm sales and use tax exemption, but I have the following comments after a quick review of the bill.

1. The bill appears to provide an exemption that flows through to the contractor on purchases of tangible personal property used by the contractor in making real property improvements. There is no requirement that the purchaser of the tangible personal property use such tangible personal property in the business of farming.

For example, Contractor A builds a barn for a Farmer B. The barn will be used exclusively and directly by Farmer B in the business of farming.

Apparently, Contractor A's purchases of bricks, lumber, etc. which it uses in building the barn would qualify for exemption under the proposal because (1) the bricks, lumber, etc. are tangible personal property, and (2) the bricks, lumber, etc. will be used exclusively and directly in the business of farming (not by Contractor A, but by Farmer B).

In addition to a loss of revenue that is not included in the fiscal estimates, this would create administrative problems both for taxpayers and the department. How would such an exemption be documented? Would Contractor A, when purchasing the bricks, lumber, etc. have a third party (Farmer B) sign the exemption certificate that Contractor A gives to its supplier stating the fact that the materials will be used exclusively and directly in the business of farming? If the farmer does not use the barn exclusively and directly in the business of farming, would Contractor A then owe use tax on the materials? How would Contractor A know that Farmer B did not use the barn in an exempt manner? How can Farmer B be liable for the tax on materials it did not purchase?

Note: Currently, the farm exemptions do not contain a requirement that the purchaser be engaged in the business of farming. For example, Person A, who is not in the business of farming, may qualify for exemption on a machine (e.g., ATV) which Person A uses exclusively in Person B's farming business. Merely adding a requirement to the bill language that the purchaser of the tangible personal property use such tangible personal property in the person's own farm business would result in Person A having to pay tax on the ATV

2. Why not repeal the other provisions that exempt certain tangible personal property used in farming? These would no longer be needed. Such provisions are sec. 77.54(3m), (27), (30)(a) 5., (33), and (34), Wis. Stats. (1997-98).

cc: Diane Hardt
Jack DeYoung
Clay Seth
John Stott



Legislative Fiscal Bureau

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

August 26, 1999

TO: Representative Lorraine Seratti
Room 18 North, State Capitol

FROM: Faith Russell, Fiscal Analyst

SUBJECT: State Sales Tax on Consumables in Agricultural Production

At your request, this memorandum provides information on various proposals to expand the current sales tax exemptions related to agricultural production. Specifically, you asked for estimates of the following: (a) the cost to the state of treating agribusiness identically to manufacturing in regards to the sales tax on consumables; (b) the cost to the state of exempting from the sales tax all non-durable goods consumed in agribusiness; and (c) the cost to the state of broadening the sales tax exemption for farm livestock medicine to include products such as bovine growth hormone, injectable vitamins and hormone stimulant implants. For the purposes of this memorandum, the term "agribusiness" is assumed to be interchangeable with "farming" as used in the sales tax statutes.

Current Law

Under current law, the 5% state sales and use tax is imposed on all sales of tangible personal property, unless specifically exempted, and on a number of services identified in the statutes. Current law provides sales tax exemptions for the following items used in agricultural production: (a) farm tractors and machines, including parts, used exclusively and directly in the business of farming; (b) seeds, plants, feed, fertilizer, pesticides and related chemicals, livestock, wire and twine, animal bedding, milkhouse supplies, plastic sheeting and certain containers used in farming; (c) medicine used on farm livestock, not including workstock; (d) animal tags and standard milk samples sold by the Department of Agriculture, Trade and Consumer Protection; (e) livestock semen used for artificial insemination; (f) electricity sold from November through April for farm use; and (g) fuel used in farming. Veterinary medical and hospitalization services are not taxable services in Wisconsin.



With respect to consumables used in manufacturing, current law provides a sales tax exemption for property that becomes an ingredient or component or that is consumed or destroyed in the manufacturing process, except for fuel and electricity (however, an income tax credit is available for sales taxes paid on fuel and electricity used in manufacturing).

Fiscal Effect of Expanding the Current Law Sales Tax Exemptions Related to Farming

Data on farm production expenditures in Wisconsin is available through the 1997 Census of Agriculture by the U.S. Department of Agriculture. The Census provides data for the following categories of production expenses that are relevant for the sales tax: (a) livestock and poultry purchased; (b) feed purchased; (c) seeds, bulbs, plants and trees; (d) commercial fertilizer; (e) agricultural chemicals; (f) petroleum products; (g) electricity; (h) repair and maintenance; (i) custom-work, machine and equipment rental; and (j) all other. The Census data is the most comprehensive source identified for data on farm production expenditures by the Wisconsin Department of Agriculture, Trade and Consumer Protection and the Wisconsin Department of Commerce. The following estimates are derived primarily from the Census data.

Effect of Sales Tax Exemption for Consumables Used in Agribusiness. You asked for an estimate of the cost of treating agribusiness identically to manufacturing in regards to the sales tax on consumables. The sales tax exemption for consumables used in manufacturing is interpreted in administrative rules of the Department of Revenue. As the administrative rules interpreting the manufacturing exemption flow directly from the definition of the term "manufacture," it is not possible to provide an estimate of the effect of an identical exemption for agriculture. In addition, the available data on farm production expenditures is not sufficiently detailed to distinguish the costs of specific items that would and would not be exempt under the manufacturing guidelines (examples provided of non-exempt items under the manufacturing exemption include hand tools, saw blades and similar "non-consumables"). Similarly, data of sufficient detail to estimate the cost of exempting all non-durable goods used in agribusiness from the sales tax is not available.

However, based on the Census information, it is possible to project the fiscal effect of exempting from the sales tax all tangible personal property used in agricultural production in Wisconsin. Such an estimate requires an assumption about the percentage of expenditures in the "all other" category in the Census data that are currently taxable. While a precise figure is not available, based on the current sales tax exemptions and discussions with industry representatives, it seems reasonable to assume that 10% to 20% of expenditures that would fall under "all other" are currently subject to the sales tax. At the 10% level, it is estimated that a sales tax exemption for all tangible personal products used in agricultural production would reduce general fund tax collections by \$5.0 million annually. At the 20% level, it is expected that sales tax collections would be reduced by \$7.5 million per year. While it is likely that the annual fiscal effect of a sales tax exemption for all currently taxable tangible personal property would be \$5.0 to \$7.5 million, it should be noted that the effect would be smaller or larger if the proportion of currently taxable sales under the "all other" category falls outside the 10% to 20% range.

The \$5.0 million to \$7.5 million estimate includes the cost of expanding the current law exemption for electricity sold from November through April for farm use to electricity sold for use in farming at any time of the year. It is estimated that the expansion of the exemption for electricity to the entire year would reduce general fund revenues by approximately \$2.2 million per year. Therefore, the cost of expanding the sales tax exemptions for farming to include all tangible personal property, net of the expansion of the electricity exemption, is estimated at \$2.8 million to \$5.3 million per year.

In addition, because the optional county sales tax and the Milwaukee Brewers' District sales tax are "piggy-backed" on the state sales tax, it is estimated that an exemption for all tangible personal property used in agricultural production would reduce such local tax collections by \$360,000 to \$530,000 per year. This range assumes that the state sales tax effect would be a reduction of \$5.0 million to \$7.5 million annually. Excluding the expansion of the electricity exemption, the local effect would be a reduction of \$200,000 to \$380,000 annually.

Effect of Sales Tax Exemption for Bovine Growth Hormone and Similar Products. Based on information provided by industry sources, it is estimated that expanding the sales tax exemption for farm livestock medicine to include bovine growth hormones, injectable vitamins and hormone growth stimulant implants would reduce state sales tax collections by approximately \$1.2 million annually. It is expected that this proposal would reduce local sales tax collection by approximately \$80,000 per year. The figures for the state and local effects of exempting bovine growth hormone and similar products from the sales tax are included in the estimates provided of the effect of exempting all tangible personal property used in farming.

I hope this information is useful. Please let me know if you have additional questions.

FR/sas

4pm - Serrath's office

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6-3780

99-3537

- 1) restore language after "and excluding" on line 9 and to "real property" on line 11
- 2) repeal other related exemptions
- 3) delete "electricity" on l 14

prep slash 3
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1999 BILL

Today 9-23-99

regen

1 **AN ACT to repeal 77.54 (3) (b) 1., 77.54 (3) (b) 2. and 77.54 (3) (c); to amend 77.54**
2 **(3) (a); and to create 77.54 (3) (b) 2m. of the statutes; relating to:** a sales tax
3 **and use tax exemption on tangible personal property used in the business of**
4 **farming.**

Analysis by the Legislative Reference Bureau

Under current law, tractors and other machines that are used for farming are exempt from the sales tax and the use tax. Under current law, a machine that is used for farming is, generally, not exempt from the sales tax and the use tax if the machine is attached to or becomes part of real property, regardless of the extent to which the machine is used in the business of farming.

Under this bill, tangible personal property that is used for farming is exempt from the sales tax and the use tax, regardless of whether the tangible personal property is attached to or becomes part of real property. Under the bill, tangible personal property that is consumed or loses its identity in the business of farming is also exempt from the sales tax and the use tax.

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.

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:

SECTION 1. 77.54 (3) (a) of the statutes is amended to read:

77.54 (3) (a) The gross receipts from the sales of and the storage, use or other consumption of ~~tractors and machines, including accessories, attachments and parts therefor,~~ tangible personal property that is used exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture and custom farming services, but excluding automobiles, trucks, and other motor vehicles for highway use, ~~excluding personal property that is attached to, fastened to, connected to or built into real property or that becomes an addition to, component of or capital improvement of real property and excluding tangible personal property used or consumed in the erection of buildings or in the alteration, repair or improvement of real property,~~ regardless of any contribution that that personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine

~~Electricity~~ ✓

SECTION 2. 77.54 (3) (b) 1. of the statutes is repealed.

SECTION 3. 77.54 (3) (b) 2. of the statutes is repealed.

SECTION 4. 77.54 (3) (b) 2m. of the statutes is created to read:

77.54 (3) (b) 2m. Notwithstanding s. 77.51 (20), “tangible personal property” includes tangible personal property that is fastened to, connected to or built into real property and tangible personal property that is consumed or loses its identity in the business of farming.

insert 3-2

Sec #. ^{RP}rp; 77.54(3m) ⁴

Sec #. ^{RP}rp; 77.54(27) ⁴

Sec #. rp; 77.54(30)(a) 3, and 5. ⁴

Sec #. rp; 77.54(33) ⁴

Sec #. rp; 77.54(34) ⁴

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**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: 09/22/1999

To: Representative Seratti

Relating to LRB drafting number: LRB-3537/3

Topic

sales tax exemption on tangible personal property used in agricultural production

Subject(s)

Tax - sales

1. **JACKET** the draft for introduction

in the Senate _____ or the Assembly Joseph M. Seratti (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.

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

State of Wisconsin



LRB COPY

APPENDIX TO

1999 ASSEMBLY BILL 515

*Report of the Joint Survey Committee on
Tax Exemptions*

STATE OF WISCONSIN

REPORT OF THE JOINT SURVEY COMMITTEE ON TAX EXEMPTIONS

1999 ASSEMBLY BILL 515

[Introduced by Seratti, Rhoades, Gronemus, Petrowski, Schneider, Ott, Suder, Freese, Ainsworth, Hundertmark, Schooff, Gard, Grothman, Hahn, Lassa, Albers, Gundrum, Pettis, Olsen, Hasenohrl, F. Lasee, Reynolds, Skindrud, Musser, Plouff, Jensen, Spillner, Wasserman, Kestell, Leibham, Gunderson, Sykora, Kreibich, Ward, Hutchison, Stone, Powers, Klusman, Johnsrud, Handrick, Brandemuehl, Kedzie, Townsend, Huebsch and Goetsch; cosponsored by Senators Breske, Drzewiecki, Roessler, Schultz, Zien, A. Lasee, Welch, Rude, Fitzgerald, Panzer, Lazich, Baumgart and Shibilski.]

General Nature of Proposal

Generally, under current law, tangible personal property used in the business of farming is subject to the sales and use tax. However, current law specifically exempts certain items of tangible personal property from the sales and use tax. For example, current law specifies that tractors and machines, including accessories, attachments and parts therefore, used exclusively and directly in the business of farming, are exempt from the sales and use tax. In addition, the following items are also exempt if they are used exclusively by the purchaser or the user in the business of farming: seeds for planting; plants; feed; fertilizer; soil conditioners; animal bedding; sprays, pesticides and fungicides; breeding and other livestock; poultry; farm work stock; bailing twine and bailing wire, containers for fruits, vegetables, grains, hay, silage and animal wastes; and plastic bags, plastic sleeves and plastic sheeting used to store or cover hay or silage.

Current law specifically does not exempt from the sales and use tax the sale of automobiles, trucks and other motor vehicles for highway use. In addition, personal property that is attached to, fastened to, connected to or built into real property or that becomes an addition to, a component of or capital improvement of real property are not exempt. In addition, tangible personal property used or consumed in the erection of buildings or in the alteration, repair or improvement of real property regardless of any contribution that the personal property makes to the production process in the building or real property and regardless of the extent to which the personal property functions as a machine is excluded from the exemption. However, certain items are exempt regardless of the extent to which they are fastened to, connected to or built into real property. Those items include:

1. Auxiliary power generators.
2. Bale loaders.
3. Barn cleaners and elevators.
4. Conveyors.
5. Feed elevators and augers.

6. Grain dryers and grinders.
7. Milk coolers.
8. Milking machines; including piping, pipeline washers and compressors.
9. Powered feeders; excluding platforms and troughs constructed from ordinary building materials.
10. Silo unloaders.

Under the bill, the exemption for tangible personal property used in farming is broadened to include all tangible personal property used in farming regardless of whether the tangible personal property is attached to or becomes part of the real property. Under the bill, tangible personal property that is consumed or loses its identity in the business of farming is also exempt from the sales tax and use tax. However, under the bill, automobiles, trucks and other motor vehicles for highway use would still be taxable. In addition, tangible personal property used or consumed in the erection of buildings or in the alteration, repair or improvement of real property would also continue to be taxable. Finally, the bill repeals several current specific farm-related definitions and exemptions for items used in farming because they would be included in the broader exemption created by the bill.

Legality Involved

There are no questions of legality involved.

Fiscal Effect Upon the State and Its Subdivisions

The Department of Revenue estimates the fiscal effect of the bill as follows:

Under current law, unless specifically exempted in the statutes, tangible personal property that is used in the business of farming is subject to the sales and use tax. This bill would extend the current sales and use tax exemption for farmers to all remaining taxable supplies used in the business of farming. These include miscellaneous equipment and supplies; all vitamins, supplements and related supplies for livestock that are currently not exempt; and machines and materials that may become part of real property if they are an essential component to the farming operation.

The total cost of the additional sales and use tax exemptions for equipment and supplies used in the business of farming related to this bill would be an estimated \$7.9 million to \$10.5 million annually. The following are the major categories of equipment and supplies that would become exempt under this bill along with the corresponding revenue loss:

General Equipment and Supplies: Based on data from the 1997 Census of Agriculture, market data from farm supply companies, and information from the University of Wisconsin-Extension, expanding the sales tax to all equipment and supplies used in the business of farming would cost an estimated \$2.6 million to \$5.2 million annually. According to the 1997 U.S. Census of Agriculture, Wisconsin farmers spent \$523.8 million on miscellaneous farm production expenses. Miscellaneous expenses include items that are currently taxable; based on UW-Extension data and interviews with farmers, an estimated 10% to 20% of the items in this expense category are currently taxable. Exempting the remaining taxable supplies would reduce sales tax revenue between \$2.6 million ($\$523.8 \text{ million} \times 10\% \times 5\%$) and \$5.2 million ($\$523.8 \text{ million} \times 20\% \times 5\%$) annually.

Vitamins, Supplements, and Related Supplies: Data from major agricultural medicine and supplement manufacturers and the UW-Extension indicate that the spending for taxable hormones, feed supplements, and vitamins in Wisconsin is nearly \$30 million; therefore, exempting these items would reduce revenue by an estimated \$1.5 million ($\$30 \text{ million} \times 5\%$) annually.

Real Property Improvement and Construction Supplies: As currently drafted, the bill would exempt all building materials used in farm construction from the sales and use tax. According to the 1992 Census of Construction, the total value of farm construction in Wisconsin was \$113 million. Based on data from the U.S. Census, the value of annual farm construction has grown 112% since 1992. Materials used in real property construction account for 32% of construction costs. The total value of materials used in real property construction in 1999 for Wisconsin is estimated at \$76.7 million ($\$113 \text{ million} \times 2.12 \times 0.32$) annually. Therefore, the revenue loss associated with construction materials for farms is estimated at \$3.8 million ($\$76.7 \text{ million} \times 5\%$) annually.

County and stadium sales tax revenues were 6.24% of state sales tax revenues in 1998. Assuming this percentage applies, county and stadium sales tax revenues would decline by approximately \$0.5 million to \$0.7 million annually.

Public Policy Involved

The bill is good public policy.