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**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

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**2007 Assembly Bill 381**

**Assembly Substitute  
Amendment 1 and Assembly  
Amendment 1 to the Substitute  
Amendment**

*Memo published:* September 19, 2007

*Contact:* Mark C. Patronsky, Senior Staff Attorney (266-9280)

*Assembly Bill 381* creates an income tax credit for sales and use taxes that a taxpayer pays on the purchase of electricity used in agricultural biotechnology. The bill allows a taxpayer (individual, partnership, or corporation) engaged in agricultural biotechnology to claim as a credit against the state income taxes owed by the taxpayer an amount equal to the sales and use taxes paid by the taxpayer on the purchase of electricity used in research and product development for agricultural biotechnology.

*Assembly Substitute Amendment 1* to Assembly Bill 381 changes the bill so that it provides a sales and use tax exemption for electricity used in research and product development for agricultural biotechnology. The effective date of the substitute amendment is July 1, 2007.

*Assembly Amendment 1* to the Substitute Amendment replaces “research or product development” with a cross-reference to “qualified research” as defined in SEC. 41 (d) of the Internal Revenue Code. This term is used in both federal and state tax law for determining eligibility for an income tax credit for a taxpayer if the taxpayer increases research activities.

In general, “qualified research” is defined as research “which is undertaken for the purpose of discovering information (i) which is technological in nature, and (ii) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer...if it relates to (i) a new or improved function, (ii) performance, or (iii) reliability or quality....” The Internal Revenue Code excludes from this definition research that “relates to style, taste, cosmetic, or seasonal design factors.” The definition also excludes research conducted after the beginning of commercial production, adaptation of a business component to a customer’s need, market research, testing, advertising, routine data collection, or quality control. A “business component” is a product, process, or invention which is either sold, leased, or licensed by the taxpayer or is used in the taxpayer’s business.

Under the Wisconsin sales and use tax statutes, it is the responsibility of the purchaser to provide the seller of electricity with an exemption certificate showing the amount of electricity that is exempt from the sales and use tax.

The amendment also changes the effective date of the substitute amendment. The July 1, 2007 effective date is deleted and replaced by an effective date that is the first day of the second month beginning after publication. According to DOR, this will give DOR time to notify taxpayers and their customers of the new sales and use tax exemption.

**Legislative History**

The Assembly Committee on Agriculture recommended adoption of Assembly Substitute Amendment 1 and Assembly Amendment 1 to the substitute amendment on a vote of Ayes, 11; Noes, 0, on September 13, 2007.

The Assembly Committee on Agriculture recommended passage of Assembly Bill 381, as amended, on a vote of Ayes, 10; Noes, 1, on September 13, 2007.

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