

CR 82-225

CERTIFICATE

RECEIVED

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

MAY 23 1983
8:45 am.
Revisor of Statutes
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to Clearinghouse Rule No. 82-225 was duly approved and adopted by this department on May 18, 1983.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 18TH of May, 1983.



Michael Ley
Secretary of Revenue

ML:psw
405101

71-53

ORDER OF THE DEPARTMENT OF REVENUE

AMENDING AND CREATING RULES

To amend Tax 11.12(2)(a)1 and (4)(b)5, 6c and 9, Tax 11.39(3)(j), (4)(c) and (r)13 and to create Tax 11.39(3)(om) relating to the sales tax status of certain activities and products involved in farming and manufacturing.

Analysis by the Department of Revenue

SECTION 1. Tax 11.12(2)(a)1 is amended to show that raising ginseng and mushrooms is considered farming for sales tax purposes, while raising earthworms is not deemed to be farming. This reflects the Department's long-standing interpretations and brings the rule in conformity with these interpretations. Subsection (4)(b)5 of the rule Tax 11.12 is amended to show that the U.S. Department of Environmental Protection has taken over the administration of the pesticide laws from the Wisconsin Department of Agriculture and that to be exempt, an item must be registered with that agency and have an EPA registration number on each container. The dates in Tax 11.12(4)(b)6c and 9 are no longer needed and they are deleted.

SECTION 2. Rule Tax 11.39(3)(j) is amended to provide that cheese plants are ordinarily deemed to be manufacturers.

SECTION 3. Rule Tax 11.39(3)(om) is created to reflect the Wisconsin Tax Appeals Commission's decision in: (1) Superior Industrial Inc. vs. Department of Revenue, dated April 26, 1979, which held that the taxpayer's coating of component parts for various manufacturers is considered manufacturing, and (2) Metal Plate and Products, Inc. vs. Department of Revenue, dated April 3, 1980, which held electroplating metal items for manufacturers is considered manufacturing for sales tax purposes.

SECTION 4. Rule Tax 11.39(4)(c) and (4)(r)13 are amended to reflect the Wisconsin Tax Appeals Commission's decision in Clarence W. Knebel d/b/a/ Knebel's Processing Plant, Inc. vs. Department of Revenue, October 20, 1978, which held that custom slaughtering of animals and operating a butcher shop are not manufacturing. In another Commission decision, Quality Wood Products vs. Department of Revenue, February 3, 1981, the Commission held that treating wood is manufacturing. Since creosoting is a type of wood treatment, it is removed from the list of nonmanufacturers.

Section Tax 11.39(4)(r)13 is also revised to reflect the Wisconsin Tax Appeals Commission's decision in W.A. Krueger Co. vs. Department of Revenue, dated February 27, 1979, which held that typesetting is one step in a commercial printer's step-by-step manufacturing process. Therefore, typesetting is removed from the list of nonmanufacturing activities.

Pursuant to the authority vested in the Department by section 227.014, Stats., the Department of Revenue hereby amends and creates rules contained in Chapter Tax 11 which interpret ss. 77.51(27) and 77.54(3) and (3m), Stats., as follows:

SECTION 1. Tax 11.12(2)(a)1, (4)(b)5, 6c and 9 are amended to read:

Tax 11.12(2)(a)1 "Farming" means the business of producing food products or other useful crops by tilling and cultivating the soil or by raising cattle, sheep, poultry, domesticated rabbits or other animals which produce a food product or which are themselves a food product. In addition, consistent with chs. 29 and 94, Stats., "Farming" includes raising 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 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; raising earthworms; operating sporting or recreational facilities (e.g., riding stables or shooting preserves); operating stockyards, slaughterhouses or feed lots as described in subd. 2; lumbering and logging, and pulpwood and sawmill operations; milling and grinding grain; and preparing sausage, canned goods, jellies, juices or syrup.

Tax 11.12(4)(b)5 'Sprays, pesticides and fungicides'. "Sprays", "pesticides" and "fungicides" include disinfectant sprays, fly sprays and preparations used to destroy insects, mites, nematodes, slugs or other invertebrate animals injurious to plants and animals; chemicals used for crop disease, pest and weed control, including insecticides, rodenticides and pesticides used to sanitize and clean dairy equipment. Products used to sanitize dairy equipment are exempt, if they are registered with the department-of-agriculture-under-s.-94.68,--Stats., U.S. Environmental Protection Agency as a-pesticide--or-fungicide pesticides, advertised and sold as pesticides, and each bottle, can or other container containing the pesticide has an EPA pesticide registration number on it.

Tax 11.12(4)(b)6c ~~The-exemption-for-animal-waste-containers-became effective-July-31,-1975.--As-a-result-farmers~~ Farmers may purchase animal waste containers without tax or the component parts thereof, by issuing their supplier a properly completed "single purchase" Farmer's Exemption Certificate.

Tax 11.12(4)(b)9 'Semen.' ~~Effective-July-22,-1971-semen~~ Semen used for artificial insemination of livestock is exempt.

SECTION 2. Tax 11.39(3)(j) is amended to read:

Tax 11.39(3)(j). Dairies and cheese plants.

SECTION 3. Section Tax 11.39(3)(om) is created to read:

Tax 11.39(3)(om). Heat treaters and metal platers performing these services on semi-finished products furnished by manufacturers.

SECTION 4. Section Tax 11.39(4)(c) and (r) 13 are amended to read:

Tax 11.39(4)(c). ~~Greaseting-plants~~ Butcher shops.

Tax 11.39(4)(r) 13. Typesetting Custom slaughtering of animals.

The rules and amendments contained in this order shall take effect as provided in s. 227.026(1)(intro.), Wis. Stats.

WISCONSIN DEPARTMENT OF REVENUE

Dated: *May 18, 1983*

By: _____

Michael Ley
Michael Ley
Secretary of Revenue