

CR 87-180

CERTIFICATE

STATE OF WISCONSIN     )  
                                  ) SS  
DEPARTMENT OF REVENUE )

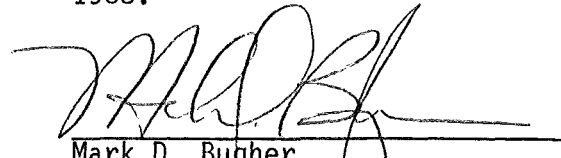
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OCT 14 1988  
8:25 am  
Revisor of Statutes  
Bureau

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to the sales and use tax treatment of the commercial breeding and raising of llamas was duly approved and adopted by this department on October 13, 1988.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 13th day of October, 1988.

  
Mark D. Bugher  
Secretary of Revenue

MDB:KJK:bet  
RPT/M022798I

October 5, 1988

10-1-88

ORDER OF THE DEPARTMENT OF REVENUE  
PROMULGATING RULES

To amend Tax 11.12(2)(a)1 and (4)(b)7 and to create 11.12(7) relating to clearly stating that the commercial breeding and raising of llamas is farming.

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Analysis by the Department of Revenue

Statutory authority: s. 227.11, Stats.

Statutes interpreted: ss. 77.54(3) and (3m), Stats.

The changes proposed in this order clarify the sales/use tax status of the commercial breeding and raising of llamas on a Wisconsin farm. Llamas are a source of wool, food and hides. They are considered farm livestock as that term is used in s. 77.54(3m), Stats., but are not considered farm work stock as that term is used in the same section of the statutes.

SECTION 1. Rules Tax 11.12(2)(a)1 is amended to set forth that raising llamas on a commercial basis is "farming" which qualifies for the sales/use tax exemptions in s. 77.54(3) and (3m), Stats. Rule Tax 11.12(4)(b)7 is amended to clarify that the definition of livestock referred to in s. 77.54(3m) includes llamas.

SECTION 2. Information regarding taxable sales of various items of tangible personal property made by farmers is added to the rule by creating subsection (7). The Wisconsin Tax Appeals Commission decision of November 12, 1983, in Jan R. Toubl, d/b/a Touble Game Farms vs. Dept. of Revenue held that sales of live pheasants and other game birds to hunting clubs, dog kennels, and taxidermists are not exempt sales of food and food products under s. 77.54(20), Wis. Stats. Sales of horses to persons who are not in the business of breeding and raising horses are taxable if the horses are for nonfarm use in racing, riding, and show. Sales of llamas to persons who are not engaged in the business of breeding and raising llamas are taxable if the animals are for use as pack animals, pets, or to herd sheep. Sales of flowers, Christmas trees and other decorative trees, plants, or shrubs to consumers or users are taxable sales under s. 77.52(1), Wis. Stats., as set forth in s. Tax 11.05(2)(p). Sales of timber and gravel are taxable sales of tangible personal property as set forth in s. Tax 11.05(2)(p).

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SECTION 1. Tax 11.12(2)(a)1 and (4)(b)7 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, llamas, 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 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; 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.

(4)(b)7 'Livestock and poultry.' "Livestock" and "poultry" include animals, the products of which are normally used as food for human consumption, and domestically raised fur bearing animals or animals which are a source of wool, {such as llamas, including those purchased for breeding}.

SECTION 2 Tax 11.12(7) is created to read:

Tax 11.12(7) Sales of tangible personal property by farmers which are taxable include:

(a) Gamebirds sold to persons, regardless of whether the birds are used as food for human consumption, if the primary reason for the purchase of the gamebirds is for hunting.

(b) Horses for use in racing, riding or show.

(c) Llamas for use as pack animals, pets or to herd sheep.

(d) Flowers, Christmas trees and other decorative trees, plants or shrubs.

(e) Timber or gravel when the purchaser acquires this property for removal.

NOTE TO REVISOR: Add the following note immediately after Tax 11.12(7).

NOTE: Farmers who anticipate making taxable sales must obtain a seller's permit. Refer to s. Tax 11.002 for a description of permit requirements, how to

apply for a permit, and the 15-day time period within which the department of revenue is required to act on permit applications.

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This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of businesses.

Dated: October 11, 1988,

DEPARTMENT OF REVENUE

By: Mark D. Bugher

Mark D. Bugher  
Secretary of Revenue

RPT/M012817B

June 22, 1988



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708

October 13, 1988

Mark D. Bugher  
Secretary of Revenue

Douglas LaFollette  
Secretary of State  
Room 271, GEF-1  
Madison, WI 53702

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OCT 14 1988

Revisor of Statutes  
Bureau

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 87-180.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

Mark D. Bugher  
Secretary of Revenue

MDB:KJK :bet  
Enclosure  
LTR/M022798E

cc: Revisor of Statutes



State of Wisconsin • DEPARTMENT OF REVENUE

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Revisor of Statutes  
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Mark D. Bugher  
Secretary of Revenue

October 13, 1988

Orlan L. Prestegard  
Revisor of Statutes  
30 West Mifflin Street, Suite 702  
Madison, Wisconsin 53703

Re: Clearinghouse Rule 87-180

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to the sales and use tax treatment of the commercial breeding and raising of llamas.

These materials are filed with you pursuant to s. 227.20 (1), Wis. Stats.

Sincerely,

Mark D. Bugher  
Secretary of Revenue

MDB:KJK :bet  
Enclosure  
LTR/M022798F

cc: Douglas J. LaFollette, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearinghouse, Inc.