



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2007 Wisconsin Act 19**  
[2007 Senate Bill 122]

**Property Tax Exemption for Waste  
Treatment Facilities  
(the “Newark Decision”)**

In general, property that is used to treat industrial wastes or air contaminants is exempt from the property tax. For purposes of the exemption, prior law defined “industrial waste” to include various forms of wood waste that can be used as fuel and would otherwise be considered superfluous, discarded, or fugitive material. In addition, the sale, storage, use, or other consumption of tangible personal property that becomes a part of property that receives this property tax exemption is exempt from the sales and use taxes.

The so-called “Newark decision” [*The Newark Group, Inc. v. The Wisconsin Department of Revenue*, Wisconsin Tax Appeals Commission, March 22, 2004] gave a very expansive interpretation to the property tax exemption and, by implication, to the sales and use tax exemption. In response to that decision, **2007 Wisconsin Act 19** makes the following changes to the exemption:

1. Requires that, to be eligible for the property tax exemption, property must be “used exclusively and directly to remove, store, or cause a physical or chemical change in” industrial waste or air contaminants.
2. Defines “industrial waste” as waste resulting from any of various processes that “has no monetary or market value...and that would otherwise be considered superfluous, discarded, or fugitive material.”
3. Defines “used exclusively” as used to the exclusion of all other uses except:
  - a. For other use not exceeding 5% of total use.
  - b. To produce heat or steam for a manufacturing process, if the fuel consists of either of the following materials and the material would otherwise be considered superfluous, discarded, or fugitive material:
    - i. 95% or more industrial waste; or

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

- ii. 50% or more of wood chips, sawdust, or other wood residue from the paper and wood products manufacturing process.
4. Deletes the separate reference to the use of wood wastes as fuel in the definition of “industrial waste.”
5. Specifies that property tax assessments under the amended property tax exemption statute supersede prior property tax assessments under that statute.
6. Provides that the sales and use tax exemption, as affected by the Act, does not apply to tangible property purchased in fulfillment of a contract to construct, repair, or improve a waste treatment facility, if the contract is entered into, or a formal bid is made, prior to the effective date of the Act and the tangible personal property is affixed to and made a structural part of the waste treatment facility.

***Effective Date:*** August 23, 2007

***Prepared by:*** David L. Lovell, Senior Analyst

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