

ANALYSIS OF HB 1026

House Agriculture & Ecology Committee

1997

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BACKGROUND:

B&O Tax Rates:

The base Business and Occupation (B&O) tax rate on the business of manufacturing is equal to the value of the products manufactured multiplied by 0.484% (that is, multiplied by the number 0.00484). (RCW 82.04.240.) However, for manufacturing a number of agricultural commodities into products, the base B&O tax rate is less than the standard manufacturing rate. For example, the base rate for manufacturing wheat into flour and canola into canola oil is 0.011%. (RCW 82.04.240 and 82.04.260(2).)

The base B&O tax rate on the business of making sales at wholesale is equal to the gross proceeds of the sales multiplied by 0.484%. (RCW 82.04.270.) However, for wholesale sales of a number of agricultural commodities purchased for sale at wholesale, the base B&O tax rate is equal to the gross proceeds of the sales multiplied by 0.011%. (RCW 82.04.260.) The B&O tax statutes do not apply to farmers who sell agricultural products at wholesale. (RCW 82.04.330.) Such a farmer must be engaged in growing or producing an agricultural product on the farmer's own lands or on the lands in which the farmer has a present right of possession. (RCW 82.04.213(2).)

Taxes paid under these base B&O tax rates for manufacturing or sales at wholesale are increased by an additional tax that is equal to the base tax multiplied by 4.5%. This additional tax expires June 30, 1997. (RCW 82.04.2201.)

Cubing Hay - B&O Taxation:

In an Excise Tax Bulletin (ETB) issued in April 1994, the Department of Revenue stated its position regarding the taxation status of various activities involving the use of equipment for the cubing of hay. (ETB 565.04.136/209 dated 4/30/94.) The position of the Department may be summarized as follows:

I. If The Hay Is Cubed (Using Portable or Stationary Equipment) on the Land of the Farmer Who Grew the Hay:

- cubing the hay is part of the harvesting process;
- farmers who sell at wholesale such cubed hay which they grew are exempt

- from B&O taxation; and
- persons who cube the hay for others are farming for hire and taxable under the B&O taxation category Service and Other Activities.–

II. If the Hay is Cubed Elsewhere:

- cubing the hay is a manufacturing activity;
- growers cannot claim a B&O tax exemption based on the use of the hay as an ingredient in a manufacturing process; and
- persons who cube the hay grown by others are taxable under the B&O taxation category Processing for Hire.–

Retail Sales Tax:

A sales tax is levied by the state on retail sales. (RCW 82.08.020.) Among the exemptions from this tax provided by statute is an exemption for sales to a manufacturer or processor for hire of machinery and equipment used directly a manufacturing operation. The exemption also applies to sales of or charges made for labor and services for installing, repairing, cleaning, altering, or improving such machinery or equipment. (RCW 82.08.02565.) For the purposes of this exemption, a manufacturing operation begins . . . at the point where the raw materials enter the manufacturing site and ends at the point where the finished product leaves the manufacturing site.– (RCW 82.08.02565(2)(d).) Although the retail sales tax statutes define this and other aspects of an operation that is eligible for the tax exemption, they do not define the term to manufacture.– The term is defined in the B&O tax statutes; the definition in the B&O tax statutes may apply to the use of the term in the retail sales tax statutes.

SUMMARY:

The definition of the term to manufacture– provided by the B&O tax statutes is amended. The term does not apply to and, therefore, the B&O tax for manufacturing does not apply to adding preservatives to hay or alfalfa for the purposes of cubing. (Section 1.)

The B&O tax rate for persons engaged in the business of making sales at wholesale of cubed alfalfa or hay is equal to the gross income derived from the sales multiplied by 0.011%. (Section 2.)