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## PROPERTY TAX: AG. PROCESSING

House Bill 4833 as enrolled  
Second Analysis (8-4-94))

Sponsor: Rep. Dan Gustafson  
House Committee: Taxation  
Senate Committee: Finance

### ***THE APPARENT PROBLEM:***

The General Property Tax Act provides an exemption from personal property taxes for "property actually being used in agricultural operations and the farm implements held for sale or resale by retail servicing dealers for use in agricultural production." The term "agricultural operations" is defined as "farming in all its branches, including cultivation of the soil, growing and harvesting of an agricultural, horticultural, or floricultural commodity, dairying, raising of livestock, bees, fur-bearing animals, or poultry, turf and tree farming, raising and harvesting of fish, and any practices performed by a farmer or on a farm as an incident to, or in conjunction with, farming operations, but excluding retail sales operations." A similar definition of the term "agricultural operations" elsewhere in the act is accompanied by the additional provision that "commercial storage, processing, distribution, marketing, or shipping operations shall not be considered part of the farming operation."

A recent dispute before the tax tribunal over the application of this exemption focused on machinery used to clean, sort, dry, grade, cool, store, bag, and ship carrots and onions. In this case, known as Wm. Bolthouse Farms, Inc., v. Newaygo County, et al., the question was whether this equipment, used on vegetables grown on the farm where it was located and on vegetables purchased from other growers, qualified for the exemption. Was the use of this equipment incidental to farming operations, making it exempt, or did its use constitute a commercial operation, in which case the equipment would be taxable? The tax tribunal ruled that the equipment, assessed at about a quarter of a million dollars in each of the five years in dispute, was exempt, but based its ruling on the fact that the majority of the vegetables processed were grown by the farmer doing the processing. The tribunal relied on a 1989 attorney general's opinion (on a hypothetical case) dealing with the Open Space and

Farmland Preservation Act that stated that where a majority of the crops handled by a processing facility were from other land owners the facility would be a commercial operation that was not incidental to agricultural uses. (The Bolthouse farming operation told the tribunal that more than 57 percent of the carrots and 85 percent of the onions processed during the tax years at issue [1987-91] were their own.) The tribunal said in its decision that "unfortunately, the legislature has not specified at what point incidental processing becomes commercial processing." The State Tax Commission is appealing the tribunal's decision. Some people think the legislature, in the meantime, should clarify the nature of the agricultural exemption from personal property taxes.

### ***THE CONTENT OF THE BILL:***

The bill would amend the General Property Tax Act to classify certain crop processing equipment as property used in agricultural operations and thus exempt from the personal property tax. It would apply to machinery used to prepare the crop for market operated incidental to a farming operation that does not substantially alter the form, shape, or substance of the crop and is limited to cleaning, cooling, washing, pitting, grading, sizing, sorting, drying, bagging, boxing, crating, and handling, if at least 33 percent of the volume of the crops processed in the year ending on the applicable tax day or in at least three of the immediately preceding five years were grown in Michigan by the farmer who was owner or user of the crop processing machinery.

MCL 211.9

### ***FISCAL IMPLICATIONS:***

There will be some loss of revenue to local units of government, according to testimony from a

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representative of equalization directors, because "a substantial portion" of the property this bill would exempt from taxation is now being assessed. (6-30-93)

### **ARGUMENTS:**

#### ***For:***

The bill would provide a legislative clarification of when certain farm equipment is to be considered incidental to agricultural operations and thus exempt from the personal property tax. It says that when a farm is engaged in certain limited (and specified) kinds of crop processing that involve preparing a crop for market, the equipment being used is exempt just like other farm equipment. This provides guidance for local units in determining who is a farmer and who is a processor. In many cases, say representatives of farm interests, the equipment referred to by the bill is not being taxed now (even with the recent tax tribunal decision). The bill recognizes that many farmers use expensive, sophisticated machines to prepare their crops for market, machines that have a capacity to process far more than the farmers themselves grow and so are used to process the crops of others. This saves others from also purchasing the machines. While the bill goes beyond the exemption recognized by the tax tribunal ruling, that ruling was on a specific case and on specific crops. The bill, instead, recognizes the nature of other kinds of farming operations as well (such as apple growing) where far less than half of the crops farmers are preparing are home-grown. It recognizes that such crop processing is an integral part of running a farm and that the equipment should have the exemption from personal property taxes that the law says applies to practices performed incidental to and in conjunction with farming operations.

#### ***Against:***

This bill represents another increase in tax expenditures, further erosion of the local property tax base, another special exemption that makes future exemption requests difficult to ignore. The tax tribunal decision on this issue has been appealed by the state. This bill goes beyond (some would say overrules) that decision by exempting even more agricultural processing equipment. The tribunal allowed an exemption when a majority of the crops being processed were grown by the processor. This bill requires only that at least one-third of the crops be homegrown. The remainder could come from anywhere. Such processing would be treated in the

law as incidental to an agricultural operation in such circumstances when one could as easily argue in such a case that the crop-growing had become incidental to processing. If the legislature wants to clarify this issue, perhaps a better way would be to distinguish between equipment used to harvest crops and equipment used to process crops; the first could be exempt, the second not. This bill would result in inequality of treatment, because a processor who did not grow crops would have to pay taxes on the same equipment doing the same thing as a tax-exempt competitor who imported two-thirds of the crop processed. Further, the more exemptions that are granted from taxes, the harder it becomes to lower tax rates for those who are paying.

#### ***Against:***

Some people argue that the personal property tax should be repealed entirely. This case just demonstrates the complications of administering that tax and the opportunity for inconsistent administration from place to place. Both the tax tribunal ruling and this bill require assessors to determine how much of the total crops being processed by a farmer were grown on the farm doing the processing in order to determine if the machinery is taxable or not. This monitoring could pose administrative problems.

#### ***Response:***

If it is to be repealed, replacement revenue must first be found.