

Legislative Analysis



INDUSTRIAL PROCESSING EXEMPTION: FRONT END LOADERS, ETC. AT SAWMILLS

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Senate Bill 198 (Substitute H-2)
Sponsor: Sen. Michelle A. McManus
Senate Committee: Finance
House Committee: Tax Policy

Complete to 5-10-10

A SUMMARY OF SENATE BILL 198 AS REPORTED FROM HOUSE COMMITTEE

Generally speaking, the Use Tax Act exempts sales of tangible personal property that is to be used in "industrial processing." The act contains a list of activities that constitute industrial processing. The act also contains lists of the kinds of personal property that are eligible for an industrial processing sales tax exemption and those that are not eligible for the exemption. For example, machinery used in industrial processing is exempt.

Senate Bill 198 would specifically make the following property eligible for the exemption: front end loaders, pettibone lifts, skidsters, multipurpose loaders, knuckle-boom log loaders, tractors, and log loaders used to unload logs from trucks at a sawmill site for the purpose of processing at the site and to load lumber onto trucks at a sawmill site for purposes of transportation from the site.

Senate Bill 198 is tie-barred to House Bill 4404, which aims to provide the same exemption in the General Sales Tax Act. See the House Fiscal Agency analysis dated 1-25-10. It is found at:
<http://www.legislature.mi.gov/documents/2009-2010/billanalysis/House/pdf/2009-HLA-4404-3.pdf>

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BACKGROUND INFORMATION AND DISCUSSION:

Owners of sawmills have testified that recent audits by the Department of Treasury have result in additional sales and use taxes being assessed on machinery used to transport logs and lumber at the sawmill site. At issue is the use of front end loaders and similar machines, which sawmill operators have treated as exempt machinery under the industrial processing exemption. These machines are used to unload logs from trucks to storage piles and from storage piles to the milling operation. Front end loaders are also used to take lumber from the mill, either directly to a truck and trailer for shipment, or first to storage and then to a truck and trailer for shipping. According to committee testimony, transporting logs to the milling process is an exempt use of equipment, whether directly from the delivery truck or from a storage pile. But transporting logs from the delivery truck to a storage pile is not an exempt use because it is not, strictly speaking, part of

industrial processing. Similarly, transporting lumber from the milling process is an exempt use, but transporting lumber from temporary storage to a truck for shipping is not an exempt use. Thus, sawmill operators are to pay sales taxes based on the time a front end loader is spent engaged in non-exempt uses.

Representatives of sawmill operations say that different auditors approach the situation differently, resulting in disparate treatment among sawmills. They say that some sawmills have received substantial increases in sales and use tax assessments due to Treasury audits: the front end loaders are expensive pieces of equipment, typically costing over \$100,000. The Michigan Association of Timbermen has offered the example of a \$350,000 new front end loader deemed to be used 50 percent of the time for non-exempt purposes, with the resulting tax equaling \$10,500. They see this as burdensome. They are seeking a full exemption for such equipment.

The Department of Treasury has expressed concern over the precedent that would be established by allowing the exemption of property that is not actually used in industrial processing but is used to load and unload trucks and trailers. While the substitute bill reported from committee is narrowly focused, it raises the prospect of other businesses seeking to extend this exemption in cases they would claim to be parallel. The concern is that this bill would be the first of a series of claims to the Legislature for exemptions for shipping and storage operations.

FISCAL IMPACT:

As written, the bill would reduce Use Tax revenue by an indeterminate, but likely small, amount. One-third of Use tax revenue is constitutionally dedicated to the School Aid Fund; the remainder accrues to the General Fund.

POSITIONS:

The Michigan Association of Timbermen supports the bill. (5-5-10)

A representative of the National Federation of Independent Business (NFIB) indicated support for the bill. (5-5-10)

Michigan Biomass (representing wood fired power plants) supports the bill. (5-5-10)

The Michigan Department of Treasury indicated opposition to the bill. (5-5-10)

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