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GAS FOR GRAIN DRYERS

House Bill 6069 as enrolled
Public Act 398 of 1998
Second Analysis (1-12-99)

Sponsor: Rep. Thomas Middleton
House Committee: Tax Policy
Senate Committee: None

THE APPARENT PROBLEM:

The General Sales Tax Act contains an exemption for tangible personal property used in agricultural activities, including "the tilling, planting, caring for, or harvesting of things of the soil." Farmers complain, however, that the Department of Treasury's reading of the act does not consider the exemption to apply to grain drying (either to the drying equipment involved or to natural gas and propane gas used to fuel the equipment). Farmers say the department considers agricultural production to be over when grain is harvested. But typically grain (e.g., corn and soybeans) that is going to be stored must be dried to a specified level of moisture. If a grain dealer receives the produce and then dries it before storage, the sales tax exemption would apply because the process would qualify as industrial processing. But if the farmer does the drying, the activity does not fall under any exemption. A representative of the Michigan Farm Bureau has said that drying ought to be considered as "caring for" things of the soil, but tax auditors don't agree. (See [Background Information](#).) Legislation to address this has been introduced.

THE CONTENT OF THE BILL:

The bill would amend the General Sales Tax Act to specify that the exemption for purchasing products related to agricultural production would apply to grain drying equipment and natural or propane gas used to fuel that equipment for agricultural purposes.

MCL 205.54a

BACKGROUND INFORMATION:

The Department of Treasury issued a letter ruling in August 1990 in response to an inquiry about whether the purchase of grain drying equipment for a grain elevator business was exempt from the sales tax as

agricultural producing equipment. The letter said that the act "provides an exemption for tangible personal property used or consumed in agricultural production. In the context of grain products, the exemption applies only to property used for tilling, planting, caring for, or harvesting the crop. Because grain drying equipment is used after the grain is harvested, it is not exempt under the agricultural producing exemption." The letter went on to say that grain drying equipment could qualify for the industrial processing exemption if it was used to dry grains that the grain elevator business or another industrial processor/manufacturer owned. But, the letter added, "Farmers are not industrial processors. Grain drying equipment used to dry grain owned by farmers is taxable." Subsequently, according to department officials, propane gas dealers inquired if they were supposed to charge sales tax on gas used to fuel grain drying equipment, and the department said they should, based on the same reasoning as found in the letter ruling.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would result in a small decrease in sales tax revenue. (HFA fiscal note dated 9-22-98)

ARGUMENTS:

For:

The bill would settle a dispute between farmers and the Department of Treasury over the tax status of grain drying, including grain drying equipment and the fuel used to operate grain dryers. It would allow the grain dryers and the propane gas and natural gas used to fuel them to be exempt from sales tax by specifically including them in the agricultural production exemption. This is not a significant change in sales tax policy because, generally speaking, purchases of products used in agriculture are exempt.

House Bill 6069 (1-12-99)

Against:

Treasury officials say they have enforcing the sales tax law as written. The act contains a list of activities that constitute agricultural producing and "drying" is not on that list. (See [Background Information.](#))

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.