



Agricultural Law Memo

ALM 11-01

8 March 2011

TOPIC: DOR Letter Ruling on Sales Tax Exemption on Equipment for Anaerobic Digesters

ISSUE: Anaerobic digesters represent an alternative energy generating technology consisting of equipment that takes organic material such as manure from dairy and livestock farms or other organic feedstocks and decomposes it in a manner that creates methane gas and a composted soil amendment. The methane gas fires an electric generating facility to supply electricity for use on the farm and to sell to customers on the electricity grid. The Department of Revenue issued Letter Ruling 10-04 that concludes that anaerobic digesters are equipment for the purposes of the sales tax exemption under G.L. c. 64H, §§ 6(s) and 6 (r). The purpose of this ALM is to describe Letter Ruling 10-04.

The Massachusetts Department of Revenue (“DOR”) has issued a [Letter Ruling 10-04](#) which holds that purchases of agricultural anaerobic digestion systems for dairy farms are exempt from the Massachusetts sales tax under two specific statutory exemptions: Exemption 1 – as machinery used directly and exclusively in agricultural production, and Exemption 2 – as machinery furnishing electricity when delivered to consumers through mains, lines, or pipes. The Letter Ruling cites with approval a letter from the Massachusetts Department of Agricultural Resources in which the MDAR Commissioner determined agricultural anaerobic digestion systems to be equipment designed and operated as part of the agricultural operations of the farm business.

DOR’s Letter Ruling describes an agricultural anaerobic digester as a combination of equipment that takes organic material such as manure and recycled feedstock and decomposes it in a controlled environment. Organic materials are then mixed and heated in a large sealed tank without the presence of oxygen resulting in a stable fertilizer product as well as methane gas from which electricity is generated for use on the farm and for sale of excess energy to the grid. In short, both the “inputs” and the “outputs” are agricultural in both their operation and purposes, including production of heat and electricity for farm buildings, outdoor lighting, milking equipment, as well as fiber for animal bedding and fertilizer for crop production. At the same time, anaerobic digesters reduce the potential nuisance often encountered in manure handling and disposal.

In concluding that agricultural anaerobic digesters are exempt from the sales tax, DOR relied on prior interpretations of the sales tax statute defining “machinery” as any combination of mechanical means designed to work together so as to affect a given end. Further, not only the basic mechanical unit falls within this definition, but also any adjunct or attachment necessary for the basic unit to accomplish its intended function.

For Exemption 1 – machinery used directly and exclusively in agricultural production – DOR interprets the phrase very broadly as including preparation of land for cultivation, harvesting, storage, all intermediate steps of growing crops and raising livestock, and preparation for market. For Exemption 2 – machinery furnishing electricity when delivered to consumers – DOR interprets this phrase also very broadly as including the purchase of ancillary and miscellaneous equipment, provided that such equipment is an adjunct or attachment necessary for the exempt machinery to accomplish its intended function, or a device used or required to control, regulate, or operate exempt machinery and directly connect with or an integral part of such machinery. In short, all items that operate harmoniously to make integrated and synchronized systems of agricultural production and energy generation and distribution.

The Letter Ruling observed that agricultural anaerobic digestion systems of the sort considered, while not used exclusively in either furnishing electricity or in agricultural production, have dual purposes, each of which is exempt independently under two separate clauses of the statute.

The Letter Ruling is not narrow in its implications for agriculture in Massachusetts, equipping farm businesses to advance into the 21st Century with new technologies to deal with old problems, with cost-effective means to make agricultural enterprises more profitable, and with operational options that make our farms good neighbors.