



## Tax Releases

*“Tax Releases” are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those in a tax release, the answers may not apply. Unless otherwise indicated, tax releases apply for all periods open to adjustment, and all references to section numbers are to the Wisconsin Statutes. (Caution: Tax releases reflect the position of the Wisconsin Department of Revenue, of laws enacted by the Wisconsin Legislature as of the date published in this Bulletin. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in a tax release.)*

The following tax release is included:

### Sales and Use Tax

1. Sales and Use Tax Exemptions for Silviculture..... 19

## SALES AND USE TAX

### 1 Sales and Use Tax Exemptions for Silviculture

**Statutes:** Sections 77.51(14r), 77.52(2)(a)10 and 20, 77.54(3)(a) as amended by 2005 Wis. Act 366, (3)(b)3, (3m)(b), (g) and (d) as amended by 2005 Wis. Act 366, (30)(a)3 and 5 as amended by 2005 Wis. Act 366, and (39), and 77.57, Wis. Stats. (2005-06).

**Wis. Adm. Code:** Sections Tax 11.12(2)(b) and (f) and 6(a)1, Wis. Adm. Code (May 1999 Register).

**Background:** 2005 Wis. Act 366 amended secs. 77.54(3)(a) and (3m), and secs. 77.54(30)(a)3 and 5, Wis. Stats. (2005-06), effective July 1, 2007, to add “silviculture” to the list of those businesses specifically recognized under these sections as farming businesses. The Act also amended sec. 77.54(3)(a), Wis. Stats. (2005-06), to provide that the exemption will apply to tractors and machines, including accessories, attachments and parts, lubricants, nonpowered equipment, and other tangible personal property used exclusively and directly, or which are consumed or lose their identities in the business of farming.

This tax release: (1) explains how sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, is to be applied in order to determine if a purchase of property will qualify for exemption under that section, (2) describes the activities that qualify as silviculture for purposes of the sales and use tax farming exemptions, and (3) provides facts and questions to explain how these exemptions apply to commonly encountered situations.

Following is the definition of “silviculture” for purposes of the exemptions provided in secs. 77.54(3)(a) and (3m), and secs. 77.54(30)(a)3 and 5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366:

**(NOTE:** Section Tax 11.12(2), Wis. Adm. Code (May 1999 Register), which defines “farming” and various farming activities, has not yet been updated to reflect the changes to the statutes as a result of 2005 Wis. Act 366. The Department of Revenue is in the process of proposing changes to the administrative code which will reflect the statutory changes under 2005 Wis. Act 366. The proposals will include the definitions for “silviculture” and “logging” as described below.)

“Silviculture” means the business of raising trees for timber, lumber and other wood products. Silviculture includes the logging of timber when it is performed by a person engaged in the business of silviculture and the logging is conducted with respect to timber produced as a result of that person’s silviculture activity. Silviculture does not include pulp or sawmill operations.

“Logging,” as used above, includes the following activities which occur while in the field: (1) the felling of trees, (2) the delimiting of felled trees, (3) the cutting of felled trees into logs, poles, or other units, (4) the transportation of cut timber from the forest to a sawmill, and (5) activities conducted in the forest incidental to the felling, cutting, and removal of trees such as the clearing of the forest to allow access to and removal of the timber from the forest land.

**Note:** The logging of timber is a custom farming service when performed for a person engaged in the business of silviculture, for a fee. As provided in sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register), performing custom farming services is a farming

business activity for purposes of the sales and use tax farming exemptions.

### Index to Facts and Questions

#### **Introduction**

- (1) Individual owns forest land devoted to the commercial production of timber and cuts the timber himself.
- (2) Same as (1), except individual also uses the equipment to cut firewood for personal use.
- (3) Same as (1), except individual also operates a sawmill and a solar kiln.
- (4) Same as (1), except individual contracts with a forester for consulting and maintenance services.
- (5) Individual purchases land and hires a forester to plan for commercial timber production. Individual hires a company to plant and maintain trees.
- (6) Same as (5), except individual will perform tree planting and maintenance herself. Also, repair of equipment used in farming.
- (7) Landowner contracts with logger to cut timber. Landowner sells timber to a sawmill.
- (8) Same as (7), except logger purchases standing timber from the landowner.
- (9) Same as (7), except landowner sells standing timber to a sawmill. Sawmill hires a logger to provide logging services.
- (10) Developer buys forested land and hires a logger to cut it.
- (11) Utility hires a company to provide utility right-of-way tree maintenance.
- (12) Modifications and repairs to heavy logging equipment before July 1, 2007, and after June 30, 2007.
- (13) Example to illustrate the July 1, 2007 effective date.

#### Introduction

Section 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, provides an exemption from Wisconsin sales and use taxes for the following:

The gross receipts from the sales of and the storage, use, or other consumption of tractors and machines, including accessories, attachments, and parts, lubricants, nonpowered equipment, and other tangible personal property that are used exclusively and directly, or are consumed or lose their identities, in the business of farming, including dairy farming, agriculture, horticulture, floriculture, silviculture, and custom farming services, but excluding automobiles, trucks, and other motor vehicles for highway use; excluding personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement of real property; and excluding tangible personal property used or consumed in the erection of buildings or in the alteration, repair, or improvement of real property, regardless of any contribution that that personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine, except as provided in par. (c).

Section 77.54(3)(b)3, Wis. Stats. (2005-06), provides that, in paragraph (a), “used exclusively” means used to the exclusion of all other uses except for other use not exceeding 5% of total use.

Under sec. 77.54(3)(a), Wis. Stats (2005-06), as amended by 2005 Wis. Act 366, tractors and machines, including accessories, attachments and parts, lubricants, nonpowered equipment, and other tangible personal property will qualify for exemption if either of the following conditions are true:

- (1) such property is used exclusively and directly in the business of farming, or
- (2) such property is consumed or loses its identity in the business of farming;

**AND** such property meeting Condition (1) or (2) is **not** any of the following:

- (a) an automobile, truck, or other motor vehicle for highway use,
- (b) personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement of real property, or,

**(Note:** There is an exception to the requirement in (b). Under Wisconsin law, the following items may qualify for exemption regardless of the extent to which they are fastened to, connected to, or built into real property: Auxiliary power generators; bale loaders; barn cleaners and elevators; conveyors; feed elevators and augers; grain dryers and grinders; milk coolers; milking machines, including piping, pipeline washers and compressors; powered feeders, excluding platforms and troughs constructed from ordinary building materials; and silo unloaders.)

- (c) tangible personal property used or consumed in the erection of buildings or in the alteration, repair, or improvement of real property, regardless of any contribution that that personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine.

Under Condition (1), “exclusively” means used to the exclusion of all other uses except for other use not exceeding 5% of total use (at least 95% of total use is use in the business of farming). Under Condition (2), “consumed in the business of farming” means the property is used 100% in the business of farming. Thus, property failing Condition (1) because it is not used directly in the business of farming may qualify for exemption as property consumed or losing its identity in the business of farming, provided it is used 100% in the business of farming.

Section 77.57, Wis. Stats. (2005-06), provides that, if a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this subchapter from the computation of the amount of the sales tax and uses the property in some other manner or for some other purpose, the purchaser is liable for the payment of sales tax. The tax shall be measured by the sales price of the property to the purchaser, but if the taxable use first occurs more than 6 months after the sale to the purchaser, the purchaser may use as the measure of the tax either that sales price or the fair market value of the property at the time of the first taxable use.

**Facts (1):** Individual B owns 200 acres of land, of which 150 acres is forested and devoted to the commercial production of timber. As part of Individual B’s management plan for the forest land, Individual B periodically cuts timber for sale. After

June 30, 2007, Individual B purchases the following: two gasoline-powered chain saws, chain saw files, metal tree wedges, and the following personal safety equipment: (1) hardhat with hearing protection and faceguard, and (2) protective chaps, shirt, and gloves. Individual B will use these items at all times in conducting silviculture operations on the 150 acres of forest land.

**Questions (1): (a)** Is Individual B engaged in the business of farming for purposes of the sales and use tax exemptions for farming in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**(b)** May the items purchased by Individual B after June 30, 2007, be purchased exempt from sales or use tax under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**Answers (1): (a)** Yes.

**(b)** Yes. The chain saws are machinery, and the wedges are nonpowered equipment which are used exclusively and directly in the business of farming. The chain saw files are nonpowered equipment which, while not used directly in the business of farming, are consumed or lose their identities in the business of farming. The personal safety equipment is other tangible personal property which, while not used directly in the business of farming, is consumed or loses its identity in the business of farming.

**Facts (2):** Same facts as (1), except Individual B will also use the chain saws, chain saw files, wedges, and personal safety equipment to cut slash and damaged trees that are not marketable as timber into firewood for use in heating his personal residence on the 200-acre parcel.

**Question (2): (a)** Is Individual B’s use of the chain saws, chain saw files, wedges, and personal safety equipment to produce firewood for use in his personal residence, from timber harvested from his 150-acre parcel of forest land, use in the business of farming?

**(b):** Does Individual B’s use of the chain saws, chain saw files, wedges and personal safety equipment to produce firewood for use in his personal residence, from timber harvested from his 150-acre parcel of forest land, invalidate the exemption for this property under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**Answer (2): (a)** No. The business of farming does not include activities conducted for personal, rather than commercial, purposes.

**(b)** As long as Individual B's use of the chain saws and wedges for use other than in the business of farming does not exceed 5% of total use, the use other than in the business of farming will not invalidate the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, for these items.

The chain saw files and personal safety equipment must be used 100% in the business of farming to qualify for exemption. Use of this property other than in the business of farming will invalidate the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366.

If Individual B knows at the time of purchase that any of these items will not be used exclusively and directly or 100% in the business of farming, Individual B may not provide an exemption certificate to the seller at the time of purchase claiming the items are exempt from sales and use taxes under 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366.

If Individual B purchases property without tax by providing the seller with an exemption certificate claiming the purchase is exempt, and subsequently uses such property in a taxable manner, Individual B is liable for sales tax as provided in sec. 77.57, Wis. Stats. (2005-06).

**Facts (3):** Same facts as (1). After June 30, 2007, Individual B also purchases: (1) an electrically-operated sawmill to cut the logs harvested from his 150 acres of forest land into dimensional lumber for sale to customers, and (2) materials which Individual B will use to construct a solar kiln on his 200-acre parcel for drying the dimensional lumber he produces.

**Questions (3): (a)** Is Individual B engaged in the business of farming with respect to the activities of sawing logs produced from the timber harvested from his 150 acres of forest land into dimensional lumber or the drying of that lumber in his solar kiln?

**(b)** Is the purchase by Individual B of the sawmill exempt from Wisconsin sales and use tax under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**(c)** Is the purchase by Individual B of the materials he will use to construct the solar kiln on his 200-acre parcel exempt from Wisconsin sales and use tax under sec. 77.54(3), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**(d)** Is the electricity used by Individual B to operate the sawmill exempt from Wisconsin sales and use tax under sec. 77.54(30)(a)3, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**Answers (3): (a)** No. Individual B is not engaged in the business of farming with respect to the sawing of logs or drying of lumber. Section Tax 11.12(2)(f), Wis. Adm. Code (May 1999 Register), provides that "farming" does not include sawmill operations.

**(b)** No. Silviculture does not include sawmill operations. Individual B's purchase of the sawmill may, however, qualify as exempt under sec. 77.54(6)(a), Wis. Stats. (2005-06) (exemption for machinery and processing equipment used exclusively and directly by a manufacturer in manufacturing tangible personal property).

**(c)** No. Silviculture does not include sawmill operations. Individual B's purchases of such materials may, however, qualify as exempt under sec. 77.54(6)(a), Wis. Stats. (2005-06) (exemption for machinery and processing equipment used exclusively and directly by a manufacturer in manufacturing tangible personal property).

**(d)** No. Silviculture does not include sawmill operations. Individual B's purchase of the electricity may, however, qualify as exempt under sec. 77.54(30)(a)6, Wis. Stats. (2005-06) (exemption for fuel and electricity consumed in manufacturing tangible personal property).

**Facts (4):** Same facts as (1). Individual B contracts with Forester D to provide consulting services with respect to the operation of his 150 acres of forest land. Forester D recommends that Individual B should perform the following operations with respect to a particular 20-acre tract of his forest land: (1) cut or girdle noncommercial tree species, and (2) remove or apply herbicide to undesirable undergrowth. Individual B enters into a contract with Forester D for Forester D to perform the recommended operations on the 20-acre tract. The maintenance services will be performed by Forester D after June 30, 2007.

Forester D will use the following items in performing the specified services for Individual B: gasoline-powered chain saws, herbicide, axes, backpack sprayers (manual pump operation), and a gasoline-powered brush cutter.

**Questions (4): (a)** Are the charges by Forester D to Individual B for the consulting services subject to tax?



**(b)** Are the charges by Forester D to Individual B for the maintenance services performed on Individual B's 20-acre tract subject to tax?

**(c)** Are the items used by Forester D in performing the services on Individual B's 20-acre tract used in the business of farming? Do the items qualify for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis Act 366, if purchased after June 30, 2007?

**(d)** Is the gasoline used by Forester D in the chain saws and brush cutter in performing the services on Individual B's 20-acre tract used in the business of farming? Does the fuel qualify for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis Act 366, if purchased after June 30, 2007?

**(e)** If Forester D purchased herbicide prior to July 1, 2007, properly paid Wisconsin sales or use taxes on the purchase, and applied this herbicide in performing the services for Individual B after June 30, 2007, is Forester D entitled to a refund of the sales or use taxes paid on this purchase of the herbicide?

**Answers (4):** **(a)** No. The charges by Forester D to Individual B for forestry consulting services are for custom farming services, as provided in sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Custom farming services are not subject to tax as provided in sec. Tax 11.12(6)(a)1, Wis. Adm. Code (May 1999 Register).

**(b)** No. The charges by Forester D to Individual B to: (1) cut or girdle noncommercial tree species, and (2) remove or apply herbicide to undesirable undergrowth are for the performance of custom farming services for Individual B, as provided in sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Charges for custom farming services are not subject to Wisconsin sales or use tax as provided in sec. Tax 11.12(6)(a)1, Wis. Adm. Code (May 1999 Register).

**(c)** Forester D is performing custom farming services for Individual B, as provided under sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Forester D is engaged in the business of farming when performing custom farming services.

Forester D uses the gasoline-powered chain saws and brush cutter, axes, and manually-operated backpack sprayers directly in the business of farming. Provided Forester D uses these items exclusively in the business of farming, the items will qualify for exemption under sec. 77.54(3)(a), Wis. Stats.

(2005-06), as amended by 2005 Wis. Act 366, for purchases occurring after June 30, 2007.

The herbicide is used exclusively in the business of farming. Herbicide is specifically exempt under sec. 77.54(3m)(g), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as a spray, pesticide, or fungicide used exclusively by the purchaser in the business of farming. The herbicide is also exempt under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as other tangible personal property that is consumed or loses its identity in the business of farming. These exemptions apply to purchases made after June 30, 2007, for use in the business of silviculture.

**(d)** Yes. Forester D is performing custom farming services for Individual B, as provided under sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Forester D is engaged in the business of farming when performing custom farming services.

The gasoline used by Forester D in the operation of the chain saws and brush cutter is used in the business of farming, and qualifies for the exemption under sec. 77.54(30)(a)5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as fuel sold for use in farming. The gasoline also qualifies for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-2006), as amended by 2005 Wis. Act 366, as other tangible personal property that is consumed or loses its identity in the business of farming. These exemptions apply to fuel purchased by Forester D after June 30, 2007, for use in performing custom farming services.

**(e)** No. At the time Forester D purchased the herbicide, Wisconsin sales or use tax was properly imposed. The changes made by 2005 Wis. Act 366 to the farming exemptions under Chapter 77, Wis. Stats. (2005-06), first apply to sales and purchases made after June 30, 2007, for use in the business of silviculture.

**Facts (5):** Individual A purchases a 40-acre parcel of land. The land has 30 acres forested in mixed hardwoods with the remaining 10 acres in ground cover suitable for planting and growing hardwood trees. Individual A is not otherwise engaged in any farming business. Individual A purchased the land for investment and recreational purposes.

After June 30, 2007, Individual A hires Forester B to develop a forestry plan for Individual A's 40-acre parcel. The plan is to reflect Individual A's objective for the long-term commercial production of timber on the parcel. Pursuant to the plan's recommenda-

tions, Individual A will plant the 10 acres currently in ground cover with black walnut and pine seedlings for the commercial production of black walnut and pine timber.

Individual A contracts with Company C to provide the materials and services to plant the 10-acre tract pursuant to Forester B's recommendations. Individual A also contracts with Company C to perform all necessary maintenance to the 10-acre tract for a period of one year from the date of planting the seedlings. All services performed by Company C are performed after June 30, 2007.

**Questions (5): (a)** Is Individual A engaged in the business of farming for purposes of the sales and use tax exemptions for farming in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**(b)** Are the charges by Forester B to Individual A for Forester B's forest consulting services subject to sales or use tax?

**(c)** Are the charges by Company C to Individual A to plant and maintain the 10-acre tract for one year subject to sales or use tax?

**(d)** Is Company C engaged in the business of farming with respect to the planting and maintenance of Individual A's 10-acre tract?

**Answers (5): (a)** Yes. Individual A is engaged in the business of silviculture. Silviculture is included as a farming activity for purposes of the sales and use tax farming exemptions.

**(b)** No. The charges by Forester B to Individual A for forestry consulting services are for custom farming services, as provided in sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Custom farming services are not subject to tax as provided in sec. Tax 11.12(6)(a)1., Wis. Adm. Code (May 1999 Register).

**(c)** No. The charges by Company C to Individual A to plant and maintain the 10-acre tract are for providing custom farming services as provided in sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Custom farming services are not subject to the sales or use tax as provided in sec. Tax 11.12(6)(a), Wis. Adm. Code (May 1999 Register).

**(d)** Yes. A person who performs custom farming services is engaged in the business of farming when performing such services.

**Facts (6):** Same facts as (5), except Individual A will perform all planting and maintenance activities to the 10-acre tract herself.

Individual A purchases pine and black walnut seedlings, a tractor and attachments for mowing, spraying, and fertilizing. The tractor and attachments will be used exclusively by Individual A in planting and maintaining the 10-acre planting site and maintaining the remaining 30 acres of forest land. Individual A also purchases fertilizer and herbicide for pre and post-planting use on the 10-acre tract as well as on the remaining 30 acres of forest land. Individual A rents a tree planting attachment for the tractor for use in planting the pine and black walnut seedlings. Individual A will perform the pre-planting and planting activities, as well as the post-planting maintenance (mowing and herbiciding) on the 10-acre tract, as well as any maintenance on the remaining 30-acre tract. All of the purchases by Individual A occur after June 30, 2007.

While planting the trees, one of the tractor tires suffers damage. Individual A pays Tire Vendor D to come to the site with a new tire and replace the damaged tire.

**Questions (6): (a)** Is Individual A engaged in the business of farming for purposes of the farming exemptions for sales and use taxes in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**(b)** Are Individual A's purchases of the tractor and attachments, seedlings, fertilizer, herbicides, the rental of the tree planting attachment, and the tractor tire and repair services subject to Wisconsin sales and use taxes?

**(c)** Are Individual A's purchases of fuel used to operate the tractor in the planting and maintenance operations subject to sales or use tax?

**Answers (6): (a)** Yes. Individual A is engaged in the business of silviculture, which is included as a farming activity for purposes of the sales and use tax farming exemptions.

**(b)** No. Individual A may purchase the tractor, the tractor tire, the mower, sprayer, and fertilizer attachments and rent the tree planter after June 30, 2007 without tax under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. Individual A will use these items directly and exclusively in the business of farming.

Individual A may purchase the services related to replacing the damaged tractor tire from Tire Vendor D without tax. Section 77.52(2)(a)10, Wis. Stats.

(2005-06), specifically provides that charges for service to tangible personal property are not taxable if, at the time of the service, a sale of that type of property to the customer would have been exempt from Wisconsin sales or use taxes (other than the exempt sale of a motor vehicle or truck body to a nonresident under sec. 77.54(5)(a), or nontaxable sales under sec. 77.51(14r)). Since, at the time of the repair to the tractor, a sale of the tractor to Individual A would be exempt from tax under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, Individual A may purchase the tire repair service without tax.

Individual A's purchase of the pine and black walnut seedlings is specifically exempt under sec. 77.54(3m)(b), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. Individual A's purchase of the fertilizer is specifically exempt under sec. 77.54(3m)(d), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. Individual A's purchase of the herbicide is specifically exempt under sec. 77.54(3m)(g), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. Individual A's purchases of the fertilizer and herbicide are also exempt under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as other tangible personal property which is consumed or loses its identity in the business of farming.

(c) No. The fuel used by Individual A to operate the tractor in the planting and maintenance operations is used in the business of farming. Individual A may purchase the fuel without tax under sec. 77.54(30)(a)5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. The fuel is also exempt from tax under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as other tangible personal property which is consumed or loses its identity in the business of farming.

**Facts (7):** Landowner C is engaged in the commercial production of timber (the business of silviculture) for purposes of the sales and use tax farming exemptions in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. Logger T is engaged in the business of logging. Landowner C contracts with Logger T to fell, delimit, cut to log size, and transport to a sawmill specified trees on Landowner C's property. Logger T is paid for its services based on a specified amount per board foot of logs which result from the timber harvest. Landowner C will sell the logs to Sawmill B at its sawmill. Sawmill B will cut the sawlogs into lumber for sale to customers.

Logger T owns and uses the following items in performing the services for Landowner C: (a) various chain saws, (b) wedges, (c) a hydraulic loader, (d) a forwarder, and (e) a timber trailer (used by Logger T to transport sawlogs to sawmills using public roads). The services are performed by Logger T after June 30, 2007.

**Questions (7): (a)** Is Logger T engaged in the business of farming for purposes of the sales and use tax exemptions for farming in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, when performing the specified services for Landowner C?

(b) Are the charges by Logger T to Landowner C subject to Wisconsin sales or use tax?

(c) Will the purchases by Logger T, made after June 30, 2007, of the items used by Logger T in performing the services for Landowner C, qualify for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

(d) Does the fuel purchased and used by Logger T to operate the chains saws, hydraulic loader, forwarder, and/or the timber trailer qualify for exemption under sec. 77.54(30)(a)5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as fuel sold for use in the business of farming?

(e) Is Logger T engaged in the business of farming when it transports Landowner C's sawlogs to Sawmill B?

(f) Are Landowner C's gross receipts from the sale of the sawlogs to Sawmill B subject to Wisconsin sales and use taxes?

(g) Is Sawmill B engaged in the business of farming as a result of purchasing the sawlogs from Landowner C, and subsequently cutting the sawlogs into lumber for sale to customers?

**Answers (7): (a)** Yes. Landowner C is engaged in the business of silviculture, which is included as a farming business activity for purposes of the sales and use tax farming exemptions. Logger T is performing a custom farming service for a farmer, for a fee, as required under sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). Custom farming services are included as a farming activity for purposes of the sales and use tax farming exemptions.

(b) No. The charges by Logger T to Landowner C are for custom farming services. Charges for custom farming services are not subject to tax, as provided in sec. Tax 11.12(6)(a)1, Wis. Adm. Code (May 1999 Register).

(c) When performing the logging services for Landowner C, Logger T is engaged in the business of farming. The chain saws, hydraulic loader, and forwarder are machinery used directly in the business of farming, and the wedges are nonpowered equipment used directly in the business of farming for purposes of sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. Assuming they are used exclusively in the business of farming, the items listed above which are used by Logger T in performing the services for Landowner C qualify for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, for purchases of such items occurring on or after July 1, 2007.

The timber trailer used by Logger T to transport Landowner C's sawlogs to Sawmill B's sawmill is used by Logger T in performing custom farming services for Landowner C. The timber trailer is an attachment to a machine which is a motor vehicle for highway use. The exemption for machines under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, does not apply to a machine which is a motor vehicle for highway use. The exemption for attachments under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, applies to attachments for a tractor or machine which itself is exempt under that section. Since the timber trailer is used as an attachment for a machine which is not exempt, the timber trailer is also not exempt under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366.

**Note:** The hydraulic loader and forwarder may also qualify for exemption under sec. 77.54(39), Wis. Stats. (2005-06), which exempts off-highway heavy mechanical equipment used exclusively and directly in the harvesting of raw timber products in the field by a person in the logging business. However, the exemption under this section does not apply to hand tools such as chain saws and wedges.

(d) Yes. The fuel purchased by Logger T on or after July 1, 2007 and used to operate the chain saws, hydraulic loader, and forwarder in performing the services for Landowner C qualifies as fuel sold for use in the business of farming. Logger T may purchase this fuel without tax under sec. 77.54(30)(a)3, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. The fuel also qualifies for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as other tangible personal property that is consumed or loses its identity in the business of farming.

(e) Yes. Landowner C is in the business of silviculture. The business of silviculture includes the transportation by Landowner C of the sawlogs produced by Landowner C's silviculture activity to a sawmill. Logger T is performing a custom farming service for Landowner C when Logger T transports Landowner C's sawlogs to a sawmill. Logger T is engaged in the business of farming when performing custom farming services.

(f) The sale of sawlogs is a sale of tangible personal property which is subject to Wisconsin sales and use taxes, unless an exemption applies. Sawmill B is purchasing the sawlogs for sale to customers. Sawmill B may furnish a properly completed exemption certificate to Landowner C, claiming its purchase is for resale.

(g) No. The business of silviculture does not include sawmill operations.

**Facts (8):** Same facts as (7), except Logger T purchases the standing timber from Landowner C for a lump sum (the selling price of the timber is determined prior to the cutting of the timber). Under the terms of the sales contract with Landowner C, Logger T is responsible for felling, delimiting, cutting the trees to log size, and removing the logs from Landowner C's property. Logger T takes possession of the sawlogs from Landowner C prior to Logger T removing the sawlogs from Landowner C's property. In a separate contract, Logger T agrees to sell the sawlogs to Sawmill B. Under the terms of the contract between Logger T and Sawmill B, Logger T is responsible for transportation of the sawlogs to Sawmill B's place of business. The sale will take place there. Sawmill B is purchasing the sawlogs for resale.

**Questions (8): (a)** Is Logger T engaged in the business of farming for purposes of the sales and use tax farming exemptions in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366 when Logger T fells, delimits, cuts the trees to log size, and removes the logs from Landowner C's forest?

(b) Is Logger T engaged in the business of farming for purposes of the sales and use tax farming exemptions in Chapter 77, Wis. Stats. (2005-2006), as amended by 2005 Wis. Act 366 when Logger T transports the logs to Sawmill B after removing the logs from Landowner C's property?

(c) Is the sale of the standing timber by Landowner C to Logger T subject to Wisconsin sales and use taxes?



(d) Will the purchases by Logger T, made after June 30, 2007, of the items used by Logger T in performing the services for Landowner C, qualify for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

(e) Does the fuel purchased and used by Logger T to operate the chains saws, hydraulic loader, and/or the forwarder qualify for exemption under sec. 77.54(30)(a)5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as fuel sold for use in farming?

(f) Is the sale of the sawlogs by Logger T to Sawmill B subject to Wisconsin sales and use taxes?

**Answers (8):** (a) Yes. Landowner C is engaged in the business of silviculture, which is included as a farming activity for purposes of the sales and use tax farming exemptions. Logger T is performing a custom farming service for a farmer (a person engaged in the business of farming), for a fee, as required under sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register). This section also provides, in part, that "...The fee may include a cash payment, a share of the harvest, or other valuable consideration." Logger T has agreed to provide logging services to Landowner C, in part, to acquire its rights and interests in Landowner C's timber. The rights and interests that Logger T acquires in Landowner C's timber is "other valuable consideration" as provided under sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register).

(b) No. Logger T is not performing a custom farming service for Landowner C when Logger T transports the logs to the sawmill after removing the logs from Landowner C's property, as Landowner C no longer owns the logs. In this example, Logger T is transporting the logs to the sawmill on its own behalf, not on behalf of Landowner C.

(c) Landowner C has sold standing timber for removal to Logger T. The sale of standing timber for removal is subject to Wisconsin sales and use tax as provided in sec. Tax 11.12(7)(e), Wis. Adm. Code (May 1999 Register), unless an exemption applies. Logger T is purchasing the timber for resale. Logger T may purchase the timber from Landowner C without tax by furnishing Landowner C with a properly completed exemption certificate, claiming the purchase is for resale.

(d) Same answer as Answer (7)(c), except that the timber trailer used by Logger T to transport sawlogs owned by Logger T to Sawmill B is not used in the business of farming, as explained in Answer 8 (b).

(e) Same answer as Answer (7)(d).

(f) The sale of sawlogs is a sale of tangible personal property which is subject to Wisconsin sales and use taxes, unless an exemption applies. Sawmill B is purchasing the sawlogs for resale. Sawmill B may furnish a properly completed exemption certificate to Logger T, claiming its purchase is for resale.

**Facts (9):** Same facts as (7), except that Landowner C sells the standing timber to Sawmill B, retaining an economic interest in the timber (the final selling price of the timber will be determined based on scaling and grading of the sawlogs after they are cut and removed from the forest). Under the sales contract, Sawmill B is responsible for the logging of the timber. Sawmill B contracts with Logger T to fell, delimb, cut to log size, and transport to a location on Landowner C's property, the trees specified in the sales contract, for a specified amount per board foot of sawlogs produced. Logger T uses the same property as in Facts (7) in performing its logging services. The sale of the sawlogs takes place on Landowner C's property. Once the sawlogs are scaled and graded (and the final selling price determined), Logger T will load the sawlogs onto its trailer and transport the sawlogs to Sawmill B's sawmill.

**Questions (9):** (a) Is Logger T considered to be performing custom farming services with respect to the logging services it performs for Sawmill B, for purposes of the exemptions under secs. 77.54(3)(a) and (3m), and secs. 77.54(30)(a)3 and 5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

(b) Are the charges by Logger T to Sawmill B for its logging services subject to Wisconsin sales or use tax?

(c) Is Logger T in the business of farming for purposes of the sales and use tax farming exemptions in Chapter 77, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366 when Logger T transports the logs from Landowner C's property to Sawmill B's sawmill?

(d) Is the sale of the standing timber by Landowner C to Sawmill B subject to Wisconsin sales and use taxes?

**Answers (9):** (a) Yes. Under the timber sales contract, Sawmill B is responsible for logging of the timber it is purchasing from Landowner C. A person providing custom farming services is considered to be a "farmer" with respect to providing such services. Sawmill B is providing a custom farming

service to Landowner C, as explained in Answer (8)(a). Thus, in providing its logging services to Sawmill B, Logger T is providing custom farming services to a farmer, for a fee, as required under sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register).

**(b)** No. Logger T is performing custom farming services. Charges for performing custom farming services are not subject to Wisconsin sales or use taxes, as provided in sec. Tax 11.12(6)(a)1, Wis. Adm. Code (May 1999 Register).

**(c)** No. Sawmill B is not providing a custom farming service to Landowner C with respect to the transportation of the sawlogs to its sawmill, as Landowner C no longer owns the sawlogs being transported. Sawmill B is having the logs transported on its own behalf and in conjunction with its sawmill operations. The business of farming does not include sawmill operations. As such, Logger T is not engaged in the business of farming when it transports sawlogs owned by Sawmill B to Sawmill B's sawmill.

**(d)** Landowner C has sold standing timber for removal to Sawmill B. The sale of standing timber for removal is subject to Wisconsin sales and use tax, unless an exemption applies. Sawmill B is purchasing the timber for resale. Sawmill B may purchase the timber from Landowner C without tax by furnishing Landowner C with a properly completed exemption certificate, claiming the purchase is for resale.

**Facts (10):** Landowner A is engaged in the business of farming. Developer M will purchase 400 acres of land from Landowner A for residential development. The sale will take place on August 15, 2007. The land is used by Landowner A in the business of farming. Landowner A's farming activities on the 400 acres include annual crop production, pasture land and the commercial growing of trees for timber. As part of the sale, Landowner A retains ownership of and the right to harvest the corn and soybean crops currently planted on the land.

Developer M contracts with Logging Company T to cut trees from the forested areas of the 400 acre site as part of clearing the land for development. Beginning no earlier than October 1, 2007, Logging Company T will fell, delimb, and cut the felled trees as appropriate for marketability (pulpwood, sawlogs, poles, firewood). The agreement between Developer M and Logging Company T is for Developer M to pay Logging Company T a negotiated

sum for Logging Company T's services. Logging Company T owns and uses the following items in performing the services for Developer M: (a) various chain saws, (b) chain saw files, (c) wedges, (d) a hydraulic loader, and (e) a forwarder. Developer M retains title to the cut timber and will sell it to various buyers.

Developer M contracts with Company L to clear the once forested land of the remaining trees, slash, stumps, and brush. Company L is to begin performing its services after Logging Company T completes its logging operations.

**Questions (10): (a)** Is Developer M engaged in the business of farming as a result of cutting and selling marketable timber resulting from clearing the site for development?

**(b)** Is Logging Company T engaged in the business of farming in performing the specified services for Developer M?

**(c)** Are the charges by Logging Company T to Developer M subject to Wisconsin sales or use taxes?

**(d)** Will the purchases by Logging Company T, made after June 30, 2007, of the items used by Logging Company T in performing the services for Developer M, qualify for the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366?

**(e)** Does the fuel purchased and used by Logging Company T to operate the chains saws, hydraulic loader, and/or the forwarder qualify for exemption under sec. 77.54(30)(a)5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, as fuel sold for use in the business of farming?

**(f)** Is Company L engaged in the business of farming when performing its services for Developer M?

**(g)** Are the charges by Company L to Developer M subject to Wisconsin sales or use taxes?

**Answers (10): (a)** No. Developer M is purchasing, cutting, and selling the timber in the business of real estate development, not in the business of silviculture.

**(b)** No. Logging Company T is not engaged in the business of farming with respect to the cutting of timber under contract for Developer M. Since Developer M is not engaged in the business of farming, Logging Company T is not performing a custom farming service for a farmer, for a fee, as required by sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register).

(c) No. The charges by Logging Company T to Developer M to cut standing timber in a forest for pulpwood, lumber, or other business purpose are charges for an exempt landscaping service.

(d) The chain saws, hydraulic loader, and forwarder are machinery used directly by Logging Company T in performing logging services. The wedges are nonpowered equipment used directly by Logging Company T in performing logging services. If Logging Company T expects that it will use this equipment at least 95% of the time in the business of farming, Logging Company T may purchase this equipment without tax, claiming the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. If Logging Company T expects that it will use the equipment less than 95% of the time in the business of farming, it may purchase the loader and forwarder without tax claiming the exemption under sec. 77.54(39), Wis. Stats. (2005-06), while the purchase of the chain saws and wedges will be subject to tax.

The chain saw files are used indirectly by Logging Company T in performing logging services. Under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, nonpowered equipment used indirectly in farming may qualify for exemption if it is consumed or loses its identity in the business of farming. This requires the equipment be used 100% in the business of farming. Since Logging Company T will use the chain saw files other than in the business of farming while performing logging services for Developer M, Logging Company T may not purchase the chain saw files without tax under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366.

(e) No. Logging Company T is not performing custom farming services for Developer M. As such, the fuel Logging Company T uses in performing logging services for Developer M is not sold for use in farming as required under sec. 77.54(30)(a)5, Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. In addition, the fuel does not qualify as other tangible personal property which is consumed or loses its identity in the business of farming under sec. 77.54(3)(a), Wis. Stats. (2005-2006), as amended by 2005 Wis. Act 366.

(f) No. Company L is performing landscaping services, not custom farming services.

(g) Yes. Company L is performing a landscaping service for Developer M. Charges for landscaping

services are specifically subject to tax under sec. 77.52(2)(a)20, Wis. Stats. (2005-06).

**Facts (11):** Utility P owns and operates overhead electrical power lines between points A and B. Utility P is responsible for maintaining the power lines. Utility P contracts with Company T to trim and/or cut trees along the utility's right-of-way in order to keep the trees from interfering with the power lines.

**Questions (11): (a)** Is Utility P engaged in the business of farming with respect to the trees it has control over in the utility's right-of-way?

(b) Is Company T engaged in the business of farming when it performs the tree maintenance operations for Utility P along the utility's right-of-way?

(c) Are the charges by Company T to Utility P for trimming and/or cutting trees Utility P has control over in its right-of-way subject to Wisconsin sales or use taxes?

**Answers (11): (a)** No. Utility P is not engaged in the business of raising trees for timber, lumber, or other wood products.

(b) No. Since Utility P is not engaged in the business of farming, Company T is not performing a custom farming service for a farmer, for a fee, as required by sec. Tax 11.12(2)(b), Wis. Adm. Code (May 1999 Register).

(c) No. Company T is not performing a landscaping service with respect to these services and the charges for this service are not otherwise subject to tax.

**Facts (12):** Logger G owns and uses various machinery and equipment in performing logging services to customers. Among these items are a diesel-powered feller buncher and a diesel-powered grapple skidder. Logger G uses Company Z to service and repair these items. On June 15, 2007, Company Z replaces a leaking hydraulic cylinder on the feller buncher. Company Z also sells and installs a global positioning system (GPS) device in the feller buncher. The feller buncher was not equipped with such a device when Logger G originally purchased it.

On July 15, 2007, Company Z sells and installs a set of new tires on the grapple skidder. At this time, Company Z also sells and installs a GPS device in the grapple skidder. The grapple skidder was not equipped with such a device when Logger G originally purchased it.

Logger G uses this equipment exclusively and directly in conducting logging operations in the field, as required by sec. 77.54(39), Wis. Stats. (2005-06) (exemption for off-highway heavy mechanical equipment used exclusively and directly in the harvesting of raw timber products in the field by a person in the logging business).

Logger G has determined that, as of July 1, 2007 and later, it will use the machinery and equipment at least 95% of the time to provide logging services which qualify as custom farming services.

**Questions (12): (a)** Are the charges by Company Z to Logger G for the hydraulic cylinder and the GPS device for the feller buncher subject to Wisconsin sales or use tax?

**(b)** Are the charges by Company Z to Logger G for the labor to replace the hydraulic cylinder and install the GPS device on the feller buncher subject to Wisconsin sales or use taxes?

**(c)** Are the charges by Company Z to Logger G for the tires and/or the GPS device for the grapple skidder subject to Wisconsin sales or use taxes?

**(d)** Are the charges by Company Z to Logger G for the service to install the new tires and/or the GPS device on the grapple skidder subject to Wisconsin sales or use taxes?

**(e)** Does the answer to (c) change if Logger G determined that, as of July 1, 2007 and later, it will not be using the logging machinery and equipment at least 95% of the time to perform custom farming services?

**(f)** Does the answer to (d) change if Logger G determined that, as of July 1, 2007 and later, it will not be using the logging machinery and equipment at least 95% of the time to perform custom farming services?

**Answers (12): (a)** Yes. While the feller buncher may be purchased by Logger G without tax under sec. 77.54(39), Wis. Stats. (2005-06), this section does not provide an exemption for repair parts or accessories for such equipment. As such, the sale of the hydraulic cylinder and the GPS device are subject to Wisconsin sales or use taxes.

**(b)** No. Logger G may purchase the services related to replacing the hydraulic cylinder and installing the GPS device from Company Z without tax. Section 77.52(2)(a)10, Wis. Stats. (2005-06), specifically provides that charges for service to tangible personal property are not taxable if, at the time of the

service, a sale of that type of property to the customer would have been exempt from Wisconsin sales or use taxes (other than the exempt sale of a motor vehicle or truck body to a nonresident under sec. 77.54(5)(a), or nontaxable sales under sec. 77.51(14r)). Since, at the time of the services to the feller buncher a sale of a feller buncher to Logger G would be exempt from tax under sec. 77.54(39), Wis. Stats. (2005-06), Logger G may purchase the services to install the hydraulic cylinder and the GPS device on the feller buncher without tax.

**(c)** No. Logger G may furnish Company Z with a properly completed exemption certificate, claiming its purchase of the tires and GPS device for the grapple skidder are exempt under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366. This section provides an exemption for tractors and machines, including accessories, attachments and parts, lubricants, nonpowered equipment, and other tangible personal property that are used exclusively and directly, or are consumed or lose their identities in the business of farming, including custom farming services. As of July 1, 2007, the grapple skidder qualifies as machinery used exclusively and directly in the business of farming. The GPS device qualifies as an accessory to, and the tires qualify as parts for, the grapple skidder under this section.

**(d)** No. Logger G may purchase the services provided by Company Z to install the new tires and the GPS device on the grapple skidder without tax, as explained in Answer (11)(b). Note that Logger G could purchase a grapple skidder exempt from tax on or after July 1, 2007 under sec. 77.54(39), Wis. Stats. (2005-2006), or under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366.

**(e)** Yes. If Logger G will not be using the logging machinery and equipment at least 95% of the time to perform custom farming services, Logger G's purchase of the tires and GPS device will be subject to Wisconsin sales or use tax.

**(f)** No. If Logger G will not be using the logging machinery and equipment at least 95% of the time to perform custom farming services, the answer to Question (12)(d) remains the same. Logger G may properly claim that he could purchase the grapple skidder exempt from tax on July 15, 2007 under sec. 77.54(39), Wis. Stats. (2005-06). As such, the services performed by Company Z to the grapple skidder may be purchased without tax.



**Facts (13):** Corporation T is engaged in the business of growing trees for sale as pulpwood, pole timber, and sawlogs to customers. Corporation T owns the land on which it grows the trees. In any given year, Corporation T is engaged in a variety of activities with respect to managing its forest lands including the planting of seedlings, thinning immature stands of trees, conducting controlled burnings, harvesting mature trees for sale to customers, and maintaining access roads and fire lanes in the forested areas.

**Questions (13): (a)** Corporation T purchased a tree planting machine on March 3, 2007. Corporation T used the planter to plant trees in its operations beginning in April 2007. Is Corporation T's purchase of the planter subject to Wisconsin sales or use tax?

**(b)** On June 15, 2007, Corporation T purchased a diesel-powered forwarder to be used directly and exclusively in its logging operations. Is Corporation T's purchase of the forwarder subject to Wisconsin sales or use tax?

**(c)** Corporation T places an order with Vendor X to purchase 24 gasoline-powered chain saws on June 27, 2007. Vendor X shipped the chain saws to Corporation T by common carrier. The common carrier delivers the chain saws to Corporation T's maintenance facility in Wisconsin on July 2, 2007. Corporation T will use the chain saws exclusively and directly in the business of silviculture. Is Corporation T's purchase of the chain saws subject to Wisconsin sales or use tax?

**Answers (13): (a)** Yes. The exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, first applies to purchases made after June 30, 2007. As the tree planting machine was purchased prior to this date, the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, does not apply. In addition, the exemption under sec. 77.54(39), Wis. Stats. (2005-06), does not apply. The tree planter does not qualify as off-highway, heavy mechanical equipment used exclusively and directly in the harvesting or processing of raw timber products in the field by a person in the business of logging.

**(b)** No. While the forwarder is purchased prior to July 1, 2007, and the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, does not apply, Corporation T may claim the exemption under sec. 77.54(39), Wis. Stats. (2005-06) (exemption for off-highway, heavy mechanical equipment used exclusively and

directly in the harvesting or processing of raw timber products in the field by a person in the business of logging).

**(c)** No. Corporation T's purchase of the chain saws was completed on July 2, 2007, the date Corporation T took possession of the saws from Vendor X's agent (the common carrier). Section 77.51(14r), Wis. Stats. (2005-06), provides that a sale or purchase involving the transfer of ownership of tangible personal property shall be deemed to have been completed at the time and place when and where possession is transferred by the seller or the seller's agent to the purchaser or the purchaser's agent, and that a common carrier or the U.S. Postal Service is deemed to be the agent of the seller, regardless of any f.o.b. point and regardless of the method by which freight or postage is paid. Since the purchase of the chain saws occurred after June 30, 2007, and Corporation T will use the chain saws exclusively and directly in the business of farming, the exemption under sec. 77.54(3)(a), Wis. Stats. (2005-06), as amended by 2005 Wis. Act 366, applies to this transaction.