



# STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	05/02/07	Bill No:	<a href="#">AB 1050</a>
Tax:	Sales and Use	Author:	La Malfa, et al.
Related Bills:			

## BILL SUMMARY

This bill would provide a sales and use tax exemption for the sale and purchase of the following:

1. Any form of animal life, except as specified, the products of which ordinarily constitute fiber, as defined.
2. Feed for any form of animal life the products of which ordinarily constitute fiber.

## SUMMARY OF AMENDMENTS

Among other things, the amendments to this bill since the previous analysis revise the language to address the ambiguities and administrative complexities pointed out in the previous analysis.

## ANALYSIS

### CURRENT LAW

Under the existing Sales and Use Tax Law, the sales or use tax applies to the sale or use of tangible personal property in this state, unless specifically exempted. Under existing law, animals are regarded as tangible personal property, and sales of animals are generally subject to tax. However, Section 6358 of the Sales and Use Tax Law provides a sales and use tax exemption on charges for what are generally referred to as “food animals.” In particular, the sale or use of any form of animal life the kind of which ordinarily constitutes food for human consumption is exempt from tax. A cow, for example, is regarded as a food animal and the sale of a cow is exempt from tax since the products from cows ordinarily constitute food for human consumption. Other animals regarded as “food animals” include sheep, rabbits, swine, chicks, fish, and bees.

In addition, the sale or use of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption is also exempt from tax (such as alfalfa for cows), as well as feed for any form of animal life of a kind the products of which are to be sold in the regular course of business (such as feed sold to a person in the business of raising and selling rodents, or feed purchased by a chinchilla farmer where the chinchillas are bred for their pelt).

Section 6358.4 also provides a sales and use tax exemption for the sale and use of drugs and medicines, the primary purpose of which is the prevention and control of disease, and administered to “food animals” or animals held for resale when the drug or medicine is administered as an additive through either their feed or water.

**PROPOSED LAW**

This bill would add Section 6358.3 to the Sales and Use Tax Law to provide a sales and use tax exemption for the sale and purchase of the following:

1. Any form of animal life the products of which ordinarily constitute fiber, and
2. Feed for any form of animal life the products of which ordinarily constitute fiber.

The bill would define “fiber” to mean a unit of matter which is capable of being spun into a yarn or made into a fabric by bonding or by interlacing in a variety of methods including weaving, knitting, braiding, felting, twisting, or webbing, and which is the basic structural element of textile products.

The bill would exclude from the term “any form of animal life,” horses, dogs, cats, monkeys, chinchillas, mink and rodents.

As a tax levy, the bill would become operative on the first day of the calendar quarter commencing more than 90 days after the bill is enacted.

**COMMENTS**

1. **Sponsor and purpose.** This bill is sponsored by the author. It is intended to provide sales of “fiber animals” the same tax benefits as sales of “food animals.” The author’s office notes the inconsistency in the law with respect to the application of tax to some animals raised for their fibers. As an example, California farmers often raise both angora rabbits and alpacas for fiber production. The sale of an angora rabbit is currently exempt from tax, as rabbits are animals of a kind the products of which ordinarily constitute food for human consumption. Yet, angora rabbits are generally bred for their wool. On the other hand, the sale of alpacas that are generally bred for their wool is subject to tax, since alpacas are not animals regarded as “food animals.” The author’s office sees this as an illogical distinction, and is attempting to put “fiber animals” on equal footing with “food animals” relative to the Sales and Use Tax Law.
2. **The May 2, 2007 amendments** add additional authors and address various issues pointed out in the previous analysis regarding the ambiguities and administrative complexities associated with the earlier language. Now, the language of the proposed statute for sales of fiber animals and their feed parallels the language in Section 6358 for the exemption for sales of food animals and their feed. With this language, the sale of any animal (except those specifically excluded) that is of a kind that ordinarily produces fiber would be exempt from tax, whether or not the animal is ultimately used to produce fiber. The proposed amendments also incorporate a definition for “fiber,” and delete the provisions that would have additionally included an exemption for the sale and purchase of drugs or medicines for fiber-producing animals.
3. **Should the application of tax for “fiber animals” parallel the tax application to “food animals?”** While the inconsistency in the law is recognized, the underlying rationale for the existing exemption for sales of food animals and feed for food animals is that food is a basic necessity of life, and its price should not be increased by taxation. Extending this type of exemption to sales of “fiber animals” could be viewed as a far-reaching deviation from this rationale.

## **COST ESTIMATE**

Some administrative costs would be incurred in notifying affected retailers, amending the Board's Regulation 1587, and answering inquiries. These costs are expected to be absorbable.

## **REVENUE ESTIMATE**

### **BACKGROUND, METHODOLOGY, AND ASSUMPTIONS**

#### **Alpacas**

In a research article titled, "Alpaca Market in California," the California Research Bureau indicated that about 99% of all alpacas in the U.S are registered, and those in the U.S. without this distinction have minimal value as breeding stock, or when auctioned, and are extremely difficult to sell through private transactions. Further, U.S. registrations exceed 98,800. Ohio, with 12,725 registered animals, is the leading state in the U.S. in alpaca population, followed by Washington, Oregon and California, with 6,530.

A 2005 research report, "Alpaca Lies: Do Alpacas Represent the Latest Speculative Bubble in Agriculture?" prepared by the Department of Agricultural and Resource Economics at the University of California, Davis, (UC Davis) discussed the costs of production for alpaca fiber. According to the report, the American Fiber Cooperative of North America (AFCNA) estimated that the feeding, vaccination and general health requirements of the average alpaca raised in the U.S. were approximately \$169 annually. The researchers or authors of this report conducted their own study and estimated that feeding costs for an average alpaca was \$208 annually and estimated an additional \$100 per alpaca for health and vaccinations costs. Total estimated costs per alpaca were \$308. The health and vaccination costs reflect an estimated 32% of the total cost ( $\$100 / \$308 = 32\%$ ). So, feeding costs would amount to 68%. If we apply the 68% to the total feeding, vaccination and general health requirements of AFCNA's estimate of \$169, we would have \$115 per year attributable to feeding costs alone.

If we take the average of both cost estimates ( $\$208 + \$115$ ), or \$161 per alpaca, and apply this to the 6,530 registered alpacas in California, total feeding costs are estimated to be \$1.2 million ( $\$161 \times 6,530$  alpacas = \$1.05 million) annually.

According to the Alpaca Owners and Breeders Association, alpaca sales data is not available. The authors of the UC Davis report indicated that there was no systematic reporting of alpaca sales. According to the California Alpaca Breeders Association (Calpaca), non-breeding males are sold as pets or for use as fiber animals, and they generally sell for \$500 to \$1,000. In a survey conducted by Calpaca in April 2007, respondents indicated that they paid \$34,000 in sales and use tax for their purchases of alpacas. Estimated annual sales for fiber-producing alpacas would therefore be \$428,212 ( $\$34,000$  sales & use tax / 7.94% average tax rate = \$428,212 taxable sales).

Therefore, the estimated taxable sales attributable to alpacas that would be exempted by this measure amounts to \$1.5 million ( $\$1.05$  million for feed + \$428,212 for alpacas).

#### **Llamas**

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According to the International Llama Registry, a not-for-profit corporation that maintains llama genealogical information, as of April 2007, there were 158,663 llamas registered in the U.S. There were 12,384 llamas registered in California. However, there is no data on the number of llamas actually sold each year.

In discussions with a major ranch owner in Southern California, it was mentioned that most llama farms are in Southern California and that llamas are larger animals than alpacas, thereby consuming a greater proportion of food. Food would include grass, hay, supplements, salt and minerals. The cost is estimated to be \$24-39 a month. Using an average cost of \$31.50 per month, total annual feeding costs are estimated to be \$378 per llama, or \$4,681,152 for all 12,384 llamas in California.

Llamas sell from \$500 to \$5,000, depending on the animal. The average estimated price is \$1,500 for females and \$800 for males. Using an average price of \$1,150 per llama, and assuming 10% of all registered llamas are sold annually, total annual sales of llamas amount to \$1,424,160 (12,384 x 10% x 1,150).

Therefore, the estimated taxable sales attributable to llamas that would be exempted by this measure amounts to \$6,105,312 (\$4,681,152 for feed + \$1,424,160 for llamas).

**Total Alpaca & Llama Sales**

Total annual sales or purchases are estimated to be \$7.6 million (\$1.5 for alpacas + \$6.1 for llamas).

**REVENUE SUMMARY**

The annual revenue loss from exempting \$7.6 million in sales of alpacas and llamas and their feed from the sales and use tax would be as follows:

	<u>Revenue Loss</u>
State loss (5%)	\$380,000
Fiscal Recovery Fund loss (0.25%)	19,000
Local loss (2.00%)	152,000
Special District loss (0.69%)	<u>52,440</u>
 Total	 <u>\$603,440</u>

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