Chapter 02 Agricultural

100 Definitions

101 Agricultural products include field crops, truck and horticultural products, livestock and livestock products, poultry and poultry products and any other product of the soil or water produced on a commercial scale for market.

102 Agricultural purpose means the predominant or exclusive growing or raising of agricultural products on a farmer’s own land or land leased by the farmer for growing or raising agricultural products for market.

103 Dairy producer means any person engaged in the production of milk for commercial use.

104 Farmer means an individual or company who grows agricultural products for market on land owned or leased by such individual or company.

105 Farm Implement means a complete unit that performs a specialized mechanical function and which is identifiable as a specific piece of equipment that is ordinary and customarily used on a farm. The trade term whole goods is not synonymous with the tax term farm implements.

106 Farm Tractor is limited to self-propelled equipment which performs no farm function within itself other than to move, draw or furnish power to other implements which may be attached. The term farm tractor does not include self-powered units which perform specialized functions such as combines, cotton pickers, hay balers, sprayers, dusters and stationary power units.

107 Livestock is defined to mean horses, cattle, swine, sheep, goats, mules, donkeys, poultry, and ratite. All other animals usually found on farms that are raised for commercial profit or commercial uses are also considered livestock. Livestock does not include dogs, cats, or any other domestic animals kept as pets.

108 A professional logger is a person, corporation, limited liability company or other entity, or an agent thereof, who possesses a professional logger’s permit issued by the Mississippi Department of Revenue.

109 (Reserved)

200 Levy

201 Sales of farm tractors to farmers for agricultural purposes are taxable at the reduced rate of 1½%. Sales of tractors to anyone other than a farmer are taxable at the regular retail rate of tax.
The sales of farm implements to farmers for use directly in the production of poultry, ratite, domesticated fish as defined in Miss. Code Ann. Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes when used on the farm are taxable at the reduced rate of 1½%.

Parts and labor used to maintain and/or repair farm tractors or farm implements which would be taxed at the reduced rate of 1½% are also subject to the reduced rate of 1½%.

Sales of three wheelers, four wheelers or other all-terrain vehicles (ATVs) are taxable at the regular retail rate unless the unit has a power takeoff and such power take-off is used to power an attached piece of farm machinery and is used exclusively for agricultural purposes. If the unit meets these requirements and is approved by the Commissioner, then it will be subject to tax as a self-propelled farm implement.

All purchases of tools, supplies, machinery and equipment which are bought for use in operation of farm implement businesses and not for resale, or which do not become an integral part of equipment being repaired are taxable at the regular rate of sales or use tax.

All purchases of farm machinery, parts and other merchandise for resale are exempt from sales or use tax.

Farm implements that qualify for the reduced 1½% rate of tax when sold to farmers for agricultural purposes include, but are not limited to:
1. Bush hogs
2. Combines
3. Combine headers
4. Cotton pickers
5. Dozers
6. Track hoes
7. Fertilizer spreaders
8. Self-propelled sprayers
9. Cotton trailers – used only in the field (not tagged for highway use)
10. Above ground irrigation equipment including center pivot systems, pumps, motors and pipe

Items that do not qualify for the reduced 1½% rate of tax when sold to farmers include, but are not limited to:
1. Garden Tractor
2. Rotary Tiller
3. Power Saw
4. Lawn Mower
5. String Trimmer
6. Storage Bin which provides no function other than storage
7. Hand Tools
8. Manual Posthole Digger
9. Trailers for Highway use or any other vehicles which require a tag
The 1½% rate of tax also applies to sales to professional loggers on all equipment used in logging, pulpwood operations or tree farming which is either self-propelled or which is mounted so that it is permanently attached to other equipment which is self-propelled or permanently attached to other equipment drawn by a vehicle which is self-propelled. Parts and labor used to maintain and/or repair such equipment are also subject to the reduced rate of 1½%. Loggers have to be certified according to Sustainable Forestry Initiative guidelines in order to qualify for the professional logger’s permit.

Equipment and parts that qualify for the reduced 1½% rate of tax when sold to loggers include, but are not limited to:
1. Cutter
2. Chipper
3. Mulcher
4. Skidder
5. Forwarder
6. Loader and/or bucking saw attachment
7. Delimber (powered or non-powered)
8. Cables and chockers used on dozers and skidders
9. Equipment mounted on trucks or trailers used directly in logging
10. Dozer used to pull trucks, make roads, and site preparation for planting
11. Hydraulic fluid, Freon, oil, grease and filters used in the above equipment
12. Tires and repair parts for the above equipment

Items sold to loggers that do not qualify for the reduced 1½% rate of tax include, but are not limited to:
1. Trucks
2. Trailers
3. Hand held power saws (chain saws)
4. Welding machines
5. Generator
6. Air compressors
7. Pressure washers
8. Hand tools
9. Equipment used to repair or maintain logging equipment
10. Tires and other parts used on trailers and trucks

Sales of aerators to domestic fish farmers for use in the raising of domesticated fish as defined in Miss. Code Ann. Section 69-7-501 are taxed at the reduced 1½% rate.

Sales of materials to a dairy producer used in the repair, renovation, addition to, expansion and/or improvement of buildings and related facilities used by a dairy producer will be taxed at the rate of 3½%.

Rental or lease of machinery and other tangible personal property is taxed at the same rates as sales of the same property.
Affidavit of Farmer Purchasing Tractors, Farm Implements and/or Parts and Labor

Any person purchasing at the reduced 1½% rate of sales tax farm tractors and farm implements and/or parts and labor used in the maintenance or repair of farm tractors and/or farm implements is required to sign an affidavit attesting to the fact that they meet the requirements for the reduced rate of tax. The Affidavit of Farmer Purchasing Tractors, Farm Implements and/or Parts and Labor can be found on the Department’s website.

Vendors can accept this affidavit as evidence that the farmer qualifies for the reduced rate. This affidavit expires annually. Once the affidavit expires, vendors must obtain a new one to ensure the farmer is still eligible for the reduced rate.

In any case of misuse of the affidavit, the difference in the reduced rate of tax and the regular retail rate will be due to the Department of Revenue along with the applicable rate of interest per month, which will be from the date of purchase until the deficiency is paid. When it is determined by the Commissioner that there has been intentional disregard of the law or an intent to defraud, there will also be added a fifty percent (50%) penalty to the deficiency.

Trade-ins, Warranty sales, Internal Sales, and Repossession

When a trade-in is taken as part payment, the tax applies on the difference received between the selling price and the amount allowed for a trade-in. A trade-in is limited to property of the same kind and character as that normally carried in inventory for sale.

When a sale is made involving different rates of tax, the amount allowed for a trade-in should be deducted from the selling price of property taxed at the same rate as the trade-in item.

When an item subject to the regular retail rate such as a trailer for highway use is traded as part payment on a tractor or other item subject to the reduced 1½% rate, the net difference is taxable at the reduced 1½% rate and the subsequent sale of the trailer for highway use is taxable at the regular retail rate.

Sales under a warranty agreement with the manufacturer are exempt on that part charged to the factory. Any part of the charge made to the customer is taxable at the appropriate rate.

Purchases or sales of parts and labor that are necessary to repair farm equipment in inventory for resale are exempt, since the tax will apply on the sale of the repaired equipment.
Repossessed property will be treated as returned merchandise and credit will be allowed only for the uncollected part of the selling price previously reported. The subsequent sale of the repossessed item will be taxable on the same basis as the sale of new merchandise.

(Reserved)

Exemptions

Retail sales of lint cotton, seed cotton, baled cotton, whether compressed or not, and cottonseed and soybeans in their original condition are exempt.

Sales of seed, vegetable seedlings, livestock feed, poultry feed, fish feed and fertilizer are exempt when sold to anyone and in any amount.

Livestock, fish and poultry feed, which includes hay, silage, beet or citrus pulp, cotton seed hulls, grain, shorts, chops, bran, mash, cottonseed meal or cake, black strap molasses, stock salt (but not table salt), oyster shells, grit and any other feed additive that stimulates growth, is exempt when sold to be used as food for livestock, fish and poultry. Sales of food for dogs, cats, or other pets and deer or wildlife are taxable at the regular retail rate of tax (examples: deer corn, bird feed, etc.).

Sales of defoliants, insecticides, fungicides, herbicides and baby chicks are exempt when they are to be used in growing agricultural and forestry products for market. When sold for use on lawns or home gardens, such retail sales are taxed at the regular retail rate.

Sales of bagging and ties for baling cotton, hay baling wire and twine, boxes, crates, bags and cans are exempt from tax when made to persons for use in growing or preparing agricultural products for market when possession thereof passes to the customer at the time of sale of the product contained therein.

Sales of ice to commercial fishermen purchased for use in the preservation of seafood or to producers for use in the refrigeration of vegetables for market are exempt. This does include the sale of dry ice.

Sales of farm products (other than ornamental plants which bear no fruit of commercial value) by the producer, except when sold by the producer through an established place of business are exempt. This includes Christmas trees, hay, straw, fresh cut flowers and similar products when grown in Mississippi and cut, severed or otherwise removed from the farm, grove, garden or other place of production and first sold from such place of production in the original state or condition of preparation of sale.

A sale of ingredients to a manufacturer of livestock or poultry feed for sale is exempt.

Retail sales of mules, horses, honey bees and other livestock are exempt.
Sales of all antibiotics, hormones and hormone preparations, drugs, medicines and other medications including serums and vaccines, vitamins, minerals or other nutrients for use in the production and growing of fish, livestock, honey bees and poultry by whomever sold is exempt. Such exemption will be in addition to the exemption provided for feed for fish, livestock, honey bees and poultry.

Sales of food products and honey that are grown, made or processed in Mississippi and sold from farmers’ markets that have been certified by the Mississippi Department of Agriculture and Commerce are exempt.

Cooperatives

Cooperative Associations are liable for sales tax on the same basis as other taxpayers, except that sales of agricultural products produced by members that have not been subjected to any manufacturing process are exempt. Sales of ice cream, pasteurized milk, buttermilk and the like are therefore taxable at the regular retail rate of tax.

Sales tax also applies on gross income from compressing and storing cotton, custom meat processing and other services as listed under Miss. Code Ann. Section 27-65-23.

Purchases by agricultural cooperatives for their own use are taxable at the regular retail rate of sales or use tax. Purchases of merchandise for resale by licensed retail agricultural cooperatives are exempt from sales or use tax. Purchases of manufacturing or processing machinery and machine parts for use in manufacturing a commodity for sale or rental are taxable at the 1½% reduced rate of tax.

Purchases of electricity and other fuels for operation of cotton gins are exempt from sales tax. Bagging and ties for baling cotton are exempt from sales or use tax. Other purchases of materials and services are taxable at the regular retail rate of tax.

(Reserved)
Cotton Compresses

The regular retail rate of sales tax applies on the following income accounts of cotton compresses (only if service is performed at cotton compresses and is not a pass through charge from cotton gins): compression, flat delivery, storage, weighing, lining, sampling, patching, branding or markings handling, cotton sold for charges and insurance. If the insurance charge is shown, then the corresponding insurance expense is a deductible item.

The following income accounts are exempt from sales tax: bagging, band, loose cotton and sweepings, patches and financial income such as interest on investments. Charges made directly to agencies of the United States Government or the State of Mississippi for storage of property owned by them may also be excluded from taxable gross income.

Purchases of permanent bale tags by cotton compresses are exempt from sales tax. Purchases of marking figures and strips, rivets and twine are likewise exempt when used as bagging and ties.

Purchases of electricity and other fuels for operation of cotton compresses are exempt from sales tax.

Purchases of manufacturing machinery, repairs and parts (band cutters, band slicers, band rollers, lift trucks, riveting machines and other processing machines) used directly in the processing operation are taxable at the reduced 1½% rate of sales or use tax.

Purchases of all other equipment and supplies (building materials, car door openers, car loaders, conveyors, cotton hooks, fire extinguishers, hand trucks, janitorial supplies, office supplies, cotton receipts, sampling machines, scales, trailers, oil, graphite, etc.) are taxable at the regular retail rate of sales or use tax.

(Reserved)

Records

Adequate records must be maintained to substantiate tax classifications of sales and purchases.

(Reserved)

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