

## Chapter 01 Florists and Nurserymen

- 100 Retail sales of flowers, potted plants, shrubbery, nursery stock, wreaths, bouquets and similar items and rental of tangible personal property by florists or nurserymen are taxable at the regular retail rate of tax.
- 101 When a nurseryman, florist or other person makes retail sales of shrubbery and similar items, and as a part of the transaction agrees to transplant them on the land of the purchaser, the tax applies to the total charge, including when installation is billed separately. The service of landscaping is taxable at the regular retail rate of tax.
- 102 Sales of livestock feed, poultry feed, fish feed, seed, vegetable seedlings and fertilizer to anyone are exempt from sales tax. Sales of defoliant, insecticides, fungicides, and herbicides 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 sales are taxed at the regular retail rate of tax.
- 103 When florists sell through a telecommunication delivery association, the following will apply:
1. On all orders taken by a Mississippi florist and communicated to a second florist for delivery, the florist accepting the order is liable for sales tax on the amount collected from the customer.
  2. When a Mississippi florist receives instructions from another florist for delivery, the Mississippi florist receiving such instructions is not liable for sales tax on receipts from the transaction.
  3. Charges for telecommunicated messages are exempt when billed separately to the customer.
- 104 Sales by producers of Christmas trees, hay, straw, fresh cut flowers and similar products are exempt when the product is grown in Mississippi, 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.
- 105 Sales of electricity, gas and other fuels to commercial horticulturists for use on a farm or in a greenhouse for growing vegetables or ornamental plants are exempt from sales tax. See Title 35 Miss. Admin. Code, Part IV, Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption. Such sales to non-producers selling vegetables and cut flowers are taxable at the regular retail rate of tax.
- 106 Sales of potting soil, mulch, or other soil amendments used in growing ornamental plants which bear no fruit of commercial value when sold to commercial plant nurseries that operate exclusively at wholesale and where no retail sales can be made are exempt.
- 107 Purchases by florists and nurserymen of supplies and equipment, such as tools, machinery, refrigeration equipment, delivery equipment, etc., for use or consumption in the trade are taxable at the regular retail rate of tax. Purchases by licensed florists and nurserymen of

merchandise for resale or rental in the regular course of business are exempt from sales or use tax.

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

109 (Reserved)

*35.IV.8.01 revised effective April 1, 2020*

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### Sales

- 100 Retail sales of flowers, potted plants, shrubbery, nursery stock, wreaths, bouquets and similar items and rental of tangible personal property by florists or nurserymen are taxable at the regular retail rate of tax.
- 101 When a nurseryman, florist or other person makes retail sales of shrubbery and similar items, and as a part of the transaction agrees to transplant them on the land of the purchaser ~~for a lump sum~~, the tax applies to the total charge ~~therefore~~, including ~~those cases where when~~ installation is billed separately. The service of landscaping is taxable at the regular retail rate of tax.
- 102 Sales of livestock feed, poultry feed, fish feed, seed, vegetable seedlings and fertilizer to anyone are exempt from sales tax. Sales of defoliants, insecticides, fungicides, and herbicides 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 sales are taxed at the regular retail rate of tax.
- 103 ~~Where-When~~ florists sell through a telecommunication delivery association, the following ~~rules~~ will apply:
1. On all orders taken by a Mississippi florist and communicated to a second florist for delivery, the florist accepting the order is liable for sales tax on the amount collected from the customer.
  2. ~~In cases where~~ When a Mississippi florist ~~received~~ receives instructions from another florist for delivery, the Mississippi florist receiving such instructions is not liable for sales tax on receipts from the transaction.
  3. Charges for telecommunicated messages are exempt when billed separately to the customer.
- ~~104~~ ~~(Reserved)~~
- 104 Sales by producers of Christmas trees, hay, straw, fresh cut flowers and similar products are exempt when the product is grown in Mississippi, 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.

### Purchases

- ~~200~~105 Sales of electricity, gas and other fuels to commercial horticulturists for use on a farm or in a greenhouse for growing vegetables or ornamental plants are ~~taxable at the 1 ½% special rate of tax~~ exempt from sales tax. See Title 35 Miss. Admin. Code, Part IV,

Subpart 6, Chapter 01 concerning the Affidavit for Utility Exemption. Such sales to non--producers selling vegetables and cut flowers are taxable at the regular retail rate of tax.

106 Sales of potting soil, mulch, or other soil amendments used in growing ornamental plants which bear no fruit of commercial value when sold to commercial plant nurseries that operate exclusively at wholesale and where no retail sales can be made are exempt.

~~201~~107 Purchases by florists and nurserymen of supplies and equipment, such as tools, machinery, refrigeration equipment, delivery equipment, etc., for use or consumption in the trade are taxable at the regular retail rate of tax. Purchases by licensed florists and nurserymen of merchandise for resale or rental in the regular course of business are exempt from sales or use tax.

~~202~~ (Reserved)

#### Reporting Requirements

~~300~~108 Adequate records must be maintained to substantiate tax classifications of sales or purchases.

~~301~~109 (Reserved)

*35.IV.8.01 revised effective April 1, 2020*