

5703-9-23

Exemption for tangible personal property used or consumed in farming, agriculture, horticulture or floriculture.

(A) The following definitions apply for the purposes of this Rule:

- (1) "Farming" means the occupation of tilling the soil to produce crops as a business and includes raising livestock, bees, or poultry, if the purpose is to sell such livestock, bees, or poultry, or the products thereof as a business.
- (2) "Agriculture" means the cultivation of the soil for the purpose of producing vegetables and fruits and includes gardening or horticulture, together with the raising and feeding of cattle or livestock for sale as a business.
- (3) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock for sale as a business and includes the operation of commercial vegetable greenhouses or nurseries.
- (4) "Floriculture" is defined as the production of flowers and plants for sale as a business, either in the field or greenhouse.

(B) Purchases of tangible personal property are exempt from sales or use tax pursuant to division (B)(17) of section 5739.02 of the Revised Code if the:

- (1) Purchaser is engaged in farming, agriculture, horticulture or floriculture; and
- (2) Tangible personal property purchased is:
 - (a) Used primarily in farming, agriculture, horticulture or floriculture to produce tangible personal property for sale; or
 - (b) Purchased for incorporation into tangible personal property produced for sale by farming, agriculture, horticulture or floriculture; or
 - (c) Used primarily in the production of tangible personal property that will be used to produce products for sale by farming, agriculture, horticulture or floriculture; or
 - (d) Used primarily in the conditioning or holding of products produced for sale by farming, agriculture, horticulture or floriculture.

(C) Any tangible personal property that is incorporated into real property is not exempt under division (B)(17) of section 5739.02 of the Revised Code. The taxability or non-taxability of sales is determined by the use of articles sold. For the sale to be exempt, it is necessary that the articles sold be used in an exempt manner. Implements and articles used to cultivate or stimulate the growth of crops or flowers which are to

be sold are within the scope of the exemptions as is livestock and poultry purchased for purposes or resale, or for the purpose of selling the products thereof. Building materials such as lumber, nails, glass and similar items to be used in the construction or repair of buildings are not exempt, unless they are used to build livestock or horticultural structures under divisions (B)(13) or (B)(36) of section 5739.02 of the Revised Code.

- (D) Persons engaged in rendering farming, agricultural, horticultural, or floricultural services for others are deemed to be engaged directly in farming, agriculture, horticulture or floriculture. For example, a veterinarian providing services to a farmer's livestock is engaged in farming and can purchase the tangible personal property primarily used in treating the livestock exempt from sales or tax.

Replaces: TX-15-10

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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