

TO BE RESCINDED

5703-9-23

Personalty used or consumed in farming, agriculture, horticulture or floriculture.

For the purpose of this Rule, farming is defined as the occupation of tilling the soil for the production of crops as a business and shall include the raising of farm livestock, bees, or poultry, where the purpose is to sell such livestock, bees, or poultry, or the products thereof as a business.

Agriculture is defined as 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 stock for sale as a business.

Horticulture is defined as the production of vegetables, vegetable plants, fruits, or nursery stock for sale as a business and shall include the operation of commercial vegetable greenhouses or nurseries.

Floriculture is defined as the production of flowers and plants for sale as a business, either in the field or greenhouse.

Persons engaged in rendering farming, agricultural, horticultural, or floricultural services for others are deemed to be engaged directly in farming, agriculture, horticulture or floriculture.

Sales of articles of tangible personal property to farmers, agriculturists, horticulturists and floriculturists, who purchase such items for the purpose of incorporating them into tangible personal property to be produced for sale, are not subject to the tax.

Sales of articles to be used or consumed in farming, agriculture, horticulture, or floriculture, directly in producing tangible personal property for sale, are not subject to the tax.

Sales of articles to be used or consumed in farming, agriculture, horticulture, or floriculture directly in the production of tangible personal property which will, in turn, be used directly in the production of products of any of the activities defined above, for sale, are not subject to the tax.

Sales of articles to be incorporated, as a material or part, into the tangible personal property described in the preceding paragraph, are not subject to the tax.

Sales of articles to be used or consumed in the conditioning or holding of products produced for sale, or produced for further use in production for sale, by farming, agriculture, horticulture or floriculture, are not subject to the tax.

The foregoing exemptions do not apply to any article which is incorporated into real property.

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 as defined above. 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.

Sales of materials such as lumber, nails, glass and similar items to be used in the construction or repair of buildings shall be subject to the tax.

Replaces: TX-15-10

Effective:

Five Year Review (FYR) Dates: 9/29/2016

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5703.05
Rule Amplifies: 5739.02
Prior Effective Dates: 1-2-62