



STATE OF ARKANSAS
**Department of Finance
and Administration**

REVENUE LEGAL COUNSEL
Post Office Box 1272, Room 2380
Little Rock, Arkansas 72203-1272
Phone: (501) 682-7030
Fax: (501) 682-7599
<http://www.dfa.arkansas.gov>

May 16, 2017

██████████
██████████
██████████

RE: Gross Receipts Tax – Taxability of Sale of Firewood
Opinion No. 20170120

Dear ██████████,

Your letters of January 14, 2017 and March 6, 2017 have been referred to me for response. According to your letters, you “sell a few cords of firewood each year.” You “sold some logs that a logger cut, sold, and sent [you] a check for your portion.” You are requesting an opinion on whether you should collect sales tax on that transaction or on your subsequent sale of the remaining wood as firewood.

RESPONSE:

Maybe. As a general rule, all sales of tangible personal property in the State of Arkansas are taxable unless a specific statutory exemption is applicable. *See* Ark. Code Ann. § 26-52-101 *et seq.* (Repl. 2008). Arkansas Code Annotated § 26-52-103(20)(A) (Repl. 2008) defines “tangible personal property” as “personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses[.]” Sellers of tangible personal property are responsible for collecting and remitting any applicable sales, use and excise tax to the Department. *See* Ark. Code Ann. § 26-52-508 (Repl. 2014). Arkansas law does not specifically exempt sales of firewood.

You indicated that it was your understanding that sales of firewood would be exempt from taxation under Arkansas Gross Receipts Rules GR-41 and GR-42. GR-42 specifically addresses dairy, livestock, and poultry products. Accordingly, GR-42 would not apply to the sale of firewood.

Arkansas Gross Receipts Rule GR-41 provides that:

- A. The gross receipts or gross proceeds derived from sales of raw products, including Christmas trees, produced or grown at a farm, orchard, or garden in Arkansas are exempt from tax if:
 1. The sale of such products is made by the producer directly to the consumer; and
 2. The sale is not from an established business located off the farm. Farmers’ markets that operate from an established place off the farm or in an established manner

off the farm are deemed to be established businesses. Products sold at farmers' markets off the farm are not eligible for the exemption.

- B. Grass sod is not a raw farm product, and the gross receipts or gross proceeds derived from sales of grass sod are taxable.
- C. Sales of flowers or non-edible trees, shrubs, or plants by florists or nurserymen are not exempt from tax.

Additionally, the gross proceeds or gross receipts derived from isolated sales not made by an established business are not taxable. *See* Ark. Code Ann. § 26-52-401(17). An isolated sale means a one-time sale of an item or group of items not made by an established business. *See* Arkansas Gross Receipts Rule GR-49. If you sold the firewood as a one-time transaction and do not anticipate being in the future business of selling firewood, then you will not be required to collect sales tax.

Logs and firewood are not raw farm products as contemplated by GR-41. Absent the specific listing of Christmas trees, Christmas trees would be subject to tax. There is no general exemption for the sale of trees or firewood under GR-41. Therefore, the logs and firewood are tangible personal property that require the collection of sales and use tax. The third-party logger would be responsible for collecting any sales, use, or excise tax on any logs it sold to consumers. You would not be responsible for the remittance of any sales, use or excise tax for logs sold by the third-party logger.¹ Assuming it is not an isolated sale contemplated above, any firewood sold directly by you to consumers will require that you collect sales and use tax on the sale.²

This opinion is based on my understanding of the facts as set out in your inquiry as those facts are governed by current Arkansas laws, rules and regulations. Any change in the facts or law could result in a different opinion. You may rely on this opinion for three years pursuant to Ark. Gross Receipts Tax Rules GR-75(B).

Sincerely,

Lauren Ballard, Attorney
Revenue Legal Counsel

¹ You may be responsible for individual income tax on any income derived from the sale of the logs. However, the Department does not have sufficient information to provide you with a legal opinion on that matter. Please contact the Department for further inquiry into the issue of individual income tax.

² Sales tax rates by zip code can be found at: http://www.arkansas.gov/dfa/excise_tax_v2/st_zip.html