



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

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RE: Gross Receipts Tax – Taxability of Purchases for Beekeeping and Honey Production
Opinion No. 20180221

Dear [REDACTED],

Your letter of February 18, 2018 requesting a legal opinion has been referred to me for response. You have indicated that you are in the process of starting a [REDACTED], which is involved in “raising honey bees for sale, producing honey, and selling queen bees.” In particular, you have requested an opinion as to the taxability of the purchases of (1) sugar syrup and other feed for the bees and vaccinations/medications for the bees, (2) woodware used to house bees, (3) trucks/trailers for moving bee colonies, (4) honey processing equipment, and (5) jars and other containers to hold honey for sale to the customers.

RESPONSE

Arkansas Code Annotated § 26-52-301 (Supp. 2017) provides that Arkansas gross receipts tax is levied upon all sales of tangible personal property and specified digital products and certain enumerated services unless a specific exemption applies. Tangible personal property is defined as personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. Ark. Code Ann. § 26-52-103(30)(A) (Supp. 2017).

A “sale” is defined as the transfer of either the title or possession, except in the case of a lease or rental for a valuable consideration, of tangible personal property, specified digital products, or a digital code regardless of the manner, method, instrumentality, or device by which the transfer is accomplished. *See* Ark. Code Ann. § 26-52-103(26)(A) (Supp. 2017). When a sale of tangible personal property or the performance of such an enumerated service occurs in Arkansas, a taxable transaction has occurred, and tax should be collected and remitted. *See* Arkansas Gross Receipts Tax Rule GR-5. The tax is computed based on the total value of consideration paid for the taxable property or service. *See* Ark. Code Ann. § 26-52-103(19)(A) (Supp. 2017). *See also* Arkansas Gross Receipt Tax Rule GR-3(H).

Sale-for-Resale Exemption

Arkansas Code Annotated § 26-52-401(12)(A)(Repl. 2014) provides that “[g]ross receipts or gross proceeds derived from sales for resale to persons regularly engaged in the business of reselling the

articles purchased, whether within or without the state, if the sales within the state are made to persons to whom gross receipts tax permits have been issued as provided in § 26-52-202.” *See also* Arkansas Gross Receipts Rule GR-53. Sales tax permits may be obtained through the Department’s sales and use tax division.

Farm Equipment and Feedstuffs

Arkansas Code Annotated § 26-52-403(b) (Repl. 2014) exempts the sale of farm equipment and machinery from sales tax. “Farm equipment and machinery” means implements used exclusively and directly in farming. *See* Ark. Code Ann. § 26-52-403(a)(1)(A) (Repl. 2014). “Farming” means the agricultural production of food or fiber as a business. *See* Ark. Code Ann. § 26-52-403(a)(2) (Repl. 2014).

Pursuant to Ark. Code Ann. § 26-52-105(b) (Repl. 2014), the Director of the Department is directed to promulgate rules for the proper enforcement of the sales tax laws. Arkansas Gross Receipts Tax Rule GR-51 (“GR-51”) provides, in pertinent part, as follows:

B. DEFINITIONS.

1. “Farm equipment and machinery” means agricultural implements used exclusively and directly for the agricultural production of food or fiber as a commercial business or the agricultural production of grass sod or nursery products as a commercial business. . . .

. . .

[C.] 2. An implement may not be treated as tax exempt unless it is used “directly” in the agricultural production of food or fiber as a business or the agricultural production of grass sod or nursery products as a business. The term “directly” limits the exemption to the following:

a. Only those implements used in the actual agricultural production of food, fiber, grass sod, or nursery products to be sold in processed form or otherwise at retail; or

b. Machinery and equipment used in the agricultural production of farm products to be fed to livestock or poultry which is to be sold ultimately in processed form at retail.

Arkansas Code Annotated § 26-52-404(a) provides an exemption from sales tax for all “[f]eedstuffs used in the commercial production of livestock or poultry.” Arkansas law also provides an exemption for the sale of “(1) Agricultural fertilizer; (2) Agricultural limestone; (3) Agricultural chemicals, including, but not limited to: (A) Agricultural pesticides and herbicides used in commercial production of agricultural products; (B) Vaccines, medications, and medicinal preparations used in treating livestock and poultry being grown for commercial purposes; and (C) Chemicals, nutrients, and other ingredients used in the commercial production of yeast.” Ark. Code Ann. § 26-52-405 (Repl. 2014).

Manufacturing Equipment

Ark. Code Ann. § 26-53-114 (Repl. 2014) provides a narrow exemption from sales and use tax for machinery and equipment used directly in manufacturing and provides in pertinent part, as follows:

- (b) As used in this section, “manufacturing” or “processing” refers to and includes those operations commonly understood within their ordinary meaning and shall also include:
- (1) Mining;
 - (2) Quarrying;
 - (3) Refining;
 - (4) Extracting oil and gas;
 - (5) Cotton ginning;
 - (6) Drying of rice, soybeans, and other grains;
 - (7) Manufacturing of feed;
 - (8) Processing of poultry and eggs and the hatching of poultry;
 - (9) Printing of all kinds, types, and characters, including the services of overprinting and photographic processing incidental to printing;
 - (10) Processing of scrap metal into grades and bales for further processing into steel and other metals;
 - (11) Rebuilding or remanufacturing of used parts and retreading of tires for automobiles, trucks, and other mobile equipment powered by electrical or internal combustion engines or motors if the rebuilt or remanufactured parts or retreaded tires are not sold directly to the consumer but are sold for resale; and
 - (12) Producing of protective coatings which increase the quality and durability of a finished product.

Based upon the language of Ark. Code Ann. § 26-53-114(b) (Repl. 2014), the Department has consistently construed the manufacturing exemption to apply to machinery and equipment intended for manufacturing conducted in an “industrial” type setting.

Analysis

1. Sugar Syrup, Other Feedstuffs, and Medications/vaccinations. “Livestock” is commonly defined as cattle, horses, mules, sheep, hogs, and any other animals kept for commercial use or profit. Accordingly, bees fit within the common definition of “livestock.” If purchased for bees that are being raised for a commercial purpose (either honey production or sale or resale of bees), the purchase of sugar syrup, other feedstuffs, and medications/vaccinations for raising the bees would be tax exempt per Ark. Code Ann. § 26-52-404 and -405 (Repl. 2014).
2. Woodware Used to House Bees. Arkansas law does not recognize a sales tax exemption that would encompass the wooden boxes used to house bees. However, if you purchase the woodware and intend to transfer the woodware as part of the sale of a colony of bees, then you will be able to purchase them sale-for-resale upon presentation of your sales tax exemption certificate to the seller.

3. Trucks/Trailers to Move Bee Colonies. Arkansas law does not provide a sales tax exemption that would encompass trucks or trailers to move bee colonies.
4. Honey Processing Equipment. It is the Department's understanding that honey processing equipment is used to purify and bottle honey once it has been extracted from the colony. Because this processing occurs after the commercial production of food or fiber, it is not directly used in the production of honey and would not qualify for a farm equipment exemption. Based on the definition of manufacturing, the production of honey does not qualify as a type of manufacturing and the manufacturing would not apply to machinery and equipment to produce honey. Accordingly, Arkansas law does not recognize a sales tax exemption for the purpose of purchasing honey processing equipment in the scenario presented by your opinion request.
5. Containers for Honey. Upon receipt and presentation of your sales tax exemption form from the Department to the wholesaler, you should be able to purchase jars and other containers used to hold the honey as sale-for-resale purchase. As long as you collect tax from the customer on the final purchase of the container of honey, the business will be able to purchase these items without remitting sales tax to the seller of the containers.

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