



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

Commissioner of Revenue
1816 West Seventh Street, Suite 2440
P.O. Box 1272
Little Rock, AR 72203-3278
Phone: (501) 682-7000
Fax: (501) 683-1161
www.arkansas.gov/dfa

August 21, 2020

[REDACTED]
[REDACTED]
[REDACTED]

RE: In the Matter of [REDACTED]
Request for Revision
Docket No.: 20-696

[REDACTED]:

This letter is in response to your request for a revision of the Administrative Decision entered in the above-referenced matter on June 9, 2020. Your letter, dated June 22, 2020, is considered a timely filed request for revision, and this letter will constitute the final decision of the Arkansas Department of Finance and Administration (the "Department") under the provisions of Ark. Code Ann. § 26-18-405 (Supp. 2019).

FACTS

The administrative hearing addressed the question of whether [REDACTED] ("Requestor") was entitled to purchase various items exempt from sales tax as machinery and equipment used exclusively and directly in the production of food and fiber. In addition, Requestor contends that he should receive credit against the sales tax due on the purchase price of a new tractor for the value of a used tractor that was traded in as part payment of the purchase price of the new tractor.

Three separate purchase invoices were introduced in the administrative hearing reflecting Requestor's purchase of various items from [REDACTED] of [REDACTED], Arkansas. The items purchased were a [REDACTED] cutter, a [REDACTED] tractor, a [REDACTED] loader, a spreader, and a [REDACTED] utility vehicle. Requestor signed a farm machinery exemption claim for each of the items purchased. The exemption claim for the [REDACTED] utility vehicle indicated that Requestor was engaged in the production of timber. The exemption claims for the remaining items did not indicate the type of agricultural product grown or produced by Requestor.

Auditors employed by the Department reviewed the purchase invoices described above and the corresponding sales tax exemption claims signed by the Requestor for each purchase. The auditor denied the exemption claims as not being allowed under Arkansas law and issued a Notice of Proposed Assessment dated March 31, 2020. That Notice of Proposed Assessment assessed sales tax in the amount of \$5,955.25 and interest of \$519.33 for a total assessment of \$6,474.58.

Requestor timely protested this assessment and an administrative hearing was conducted based on the submission of written documents. The hearing officer reviewed the briefs and exhibits introduced by the Requestor and the Department and determined that the Notice of Proposed Assessment was properly issued. Accordingly, the hearing officer issued a decision sustaining the tax assessment against Requestor.

ANALYSIS

Arkansas sales and use tax is applicable to the total gross receipts or gross proceeds derived from the sale of tangible personal property. *See* Ark. Code Ann. § 26-52-301(1)(a) (Supp. 2019). Accordingly, Requestor's purchase of the items in question are subject to sales tax unless a specific tax exemption has been enacted that would exempt those purchases from tax.

The General Assembly enacted a sales tax exemption for the purchase of farm machinery and equipment. That exemption is codified at Ark. Code Ann. § 26-52-403 (Supp. 2019) and reads, in relevant part, as follows:

(a) As used in this section:

(1)(A) "Farm equipment and machinery" means implements used exclusively and directly in farming.

(B) "Farm equipment and machinery" includes:

(i) Irrigation pipe used to carry water from an irrigation well to the crops produced in farming regardless of whether the irrigation pipe is used above ground or is buried underground; and

(ii) Implements used to harvest crops produced in farming by others.

(C) **However, "farm equipment and machinery" shall not include implements used in the production and severance of timber**, motor vehicles of a type subject to registration, airplanes, or hand tools; and

(2) "Farming" means the agricultural production of food or fiber as a business or the agricultural production of grass sod or nursery products as a business.

(b) The gross receipts or gross proceeds derived from the sale of new and used farm equipment and machinery are exempt from the Arkansas gross receipts tax levied by this chapter.

(c) [...].

[Emphasis added].

The language quoted above reveals that the farm equipment and machinery exemption claimed by Requestor does not extend to implements used in the production and severance of timber. The hearing officer concluded that the Requestor's use of the items in timber production precluded the application of the exemption for farm machinery and equipment. The Requestor explained in his revision request that the items in question were used in the production of timber. Accordingly,

██████████
Re: In the Matter of ██████████

August 21, 2020

Page 3 of 3

the hearing officer correctly determined that the Department properly denied the claimed exemption and properly assessed sales tax and interest on those purchases.

The Requestor also contends that a trade-in deduction should be allowed in computing the sales tax due on his purchase of a new tractor. Arkansas law provides a sales tax credit only for the trade-in of motor vehicles, trailers, and semi-trailers. *See* Ark. Code Ann. § 26-52-510 (Supp. 2019). No similar credit is provided for tractors. Instead, sales tax is assessed on the total consideration received for the sale of tangible personal property whether received in money or otherwise. *See* Ark. Code Ann. § 26-52-103(19)(A). Accordingly, the hearing officer correctly determined that state law does not authorize a sales tax credit for a trade-in when computing the sales tax due on the purchase of a new tractor.

Arkansas law provides an avenue for taxpayers who are not financially able to pay a tax assessment in full to resolve the assessment. You may contact the Department's Office of Problem Resolution and Taxpayer Information to obtain additional information about the Department's Offer in Compromise program or to obtain information about payment arrangements that might be available. Information regarding the Offer In Compromise program, including forms and instructions, can be located at <https://www.dfa.arkansas.gov/revenue-policy-legal/offers-in-compromise/>.

CONCLUSION

For the reasons set forth above, the Administrative Hearing Decision is sustained. This concludes your administrative remedies under the Arkansas Tax Procedure Act. Relief from this decision may be sought according to the procedure set forth in Ark. Code Ann. § 26-18-406 (Supp. 2019).

Sincerely,

Charles S. Collins
Commissioner of Revenue