



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

**REVENUE LEGAL COUNSEL**

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August 2, 2016

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Re: Gross Receipts Tax - Livestock Equipment Exemption Determination  
Opinion 20160701

Dear [REDACTED],

This letter is in reference to your request of July 12, 2016 for a legal opinion from the Department. It is my understanding that you are requesting this opinion on behalf of [REDACTED], whose primary business is the manufacture of livestock equipment. It is my understanding that you are inquiring as to whether the gross receipts tax applies to sales of specific items that [REDACTED] manufactures.

**Question:** Are (1) gates and continuous fence panels, (2) portable hay feeders, (3) portable working tubs, (4) portable alleyways, (5) portable squeeze chutes, and (6) [REDACTED] [REDACTED] exempt from gross receipts tax?

**Response:** All sales of tangible personal property are subject to gross receipts tax, unless the items are specifically exempted by law. Ark. Code Ann. § 26-52-301(1)(Repl. 2014).

Ark. Code Ann. § 26-52-403 (Repl. 2014) also provides that sales of new and used farm equipment and machinery are exempt from gross receipts tax, so long as they are used exclusively and directly in farming. Arkansas Gross Receipts Tax Rule 51(A) provides that farm equipment and machinery is exempt if used "exclusively and directly for the agricultural production of food or fiber as a commercial business..." However, certain implements are not exempt from gross receipts tax, including any items which are containers or storage facilities or any items that are incorporated into real property. Gross Receipts Tax Rule GR-51(C)(3)(a) and (d).

Before we address whether specific items are exempt from gross receipts tax, please note that your customers must meet all of the requirements listed in Arkansas Gross Receipts Tax Rule GR-51, a copy of which is enclosed. The customers must certify, in writing, on the copy of the invoice or sales ticket to be retained by you that they are engaged in farming and that the farm machinery will be used exclusively and directly in farming as a business. Please refer to the

certification form contained at the end of Gross Receipts Tax Rule GR-51<sup>1</sup>. It is necessary that your customers provide you a copy of this certification in order to qualify for the tax exemption. You, in turn, must certify to the Arkansas Department of Finance and Administration that the contract price of the farm equipment has been reduced to grant the full benefit of the exemption.

As to the specifically listed items in your letter, I will assume in my answer that the items are being used “exclusively” and “directly” for the agricultural production of food or fiber “as a business.”<sup>2</sup>

1. Gates and continuous fence panels. These are heavy duty gates and fence panels used to contain livestock. While these items could be used directly and exclusively for commercial farming, they are fixed to real property, therefore they do not meet the exemption set out in Arkansas Gross Receipts Tax Rule GR-51. Therefore, gross receipts tax is applicable to the sale of gates and continuous fence panels.
2. Portable hay feeders. This is a portable piece of equipment used to feed hay to livestock. Because this item is designated as “portable” it does not affix to real property. Accordingly, sales of portable hay feeders are exempt from gross receipts tax under Arkansas Gross Receipts Tax Rule GR-51, so long as they are not later affixed to real property.
3. Portable working tubs. Portable working tubs (also known as “crowding tubs”) are used to move livestock in a manner that is less stressful to the animals and safer for the operator. Despite the name, these tubs are used for moving livestock and not storing them; therefore, the “storage facilities” exemption of Arkansas Gross Receipts Tax Rule GR-51(C)(3)(a) does not apply. Accordingly, sales of portable working tubs are exempt from gross receipts tax under Arkansas Gross Receipts Tax Rule GR-51, so long as they are not later affixed to real property.
4. Portable alleyways. Like portable working tubs, portable alleyways are used to move livestock. The sale of portable alleyways are exempt from gross receipts tax under Arkansas Gross Receipts Tax Rule GR-51, so long as they are not later affixed to real property.
5. Squeeze chutes. Squeeze chutes are used to restrain livestock for veterinary purposes. Sales of squeeze chutes are exempt from gross receipts tax under Arkansas Gross Receipts Tax Rule GR-51, so long as they are not affixed to real property.
6. [REDACTED]. The [REDACTED] is a portable fencing system that can be reconfigured to different corral numbers and sizes. The sale of [REDACTED] are exempt from gross receipts tax under

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<sup>1</sup> A copy of the Commercial Farming Sales Tax Exemption Certification can also be found at <http://www.dfa.arkansas.gov/offices/exciseTax/salesanduse/Documents/CommercialFarmExemptionCertificate.pdf>.

<sup>2</sup> Please note that if an item is sold and it is not used exclusively and directly in the agricultural production of food and fiber as a business, the Arkansas Gross Receipts Tax Rule GR-51 does not apply.

Arkansas Gross Receipts Tax Rule GR-51, so long as they are not later affixed to real property.

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.

Sincerely,

Lauren Ballard  
Revenue Legal Counsel