

*** DRAFT – NOT FOR FILING ***

5703-9-23

Personalty Exemption for tangible personal property used or consumed in farming, agriculture, horticulture or floriculture.

(A) For the purpose ~~The following definitions apply for the purposes of this Rule;~~

(1) “farming” ~~“Farming” is defined as the~~ means the occupation of tilling the soil ~~for the production of~~ to produce crops as a business and ~~shall include~~ includes the raising of ~~farm~~ livestock, bees, or poultry, ~~whereif~~ the purpose is to sell such livestock, bees, or poultry, or the products thereof as a business.

(2) “Agriculture” ~~is defined as~~ means 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.

(3) “Horticulture” ~~is defined as~~ means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms and vegetable plants, fruits, or nursery stock for sale as a business and ~~shall include~~ includes the operation of commercial vegetable greenhouses or nurseries.

(4) “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.~~

*** DRAFT – NOT FOR FILING ***

(B) Purchases of tangible personal property are exempt from sales or use tax pursuant to division (B)(17) of section 5739.02 of the Revised Code if the:

(1) Purchaser is engaged in farming, agriculture, horticulture or floriculture; and

(2) Tangible personal property purchased is:

(a) Used primarily in farming, agriculture, horticulture or floriculture to produce tangible personal property for sale; or

(b) Purchased for incorporation into tangible personal property produced for sale by farming, agriculture, horticulture or floriculture, including but not limited to livestock or poultry purchased for the purposes of resale; or

(c) Used primarily in the production of tangible personal property that will be used to produce products for sale by farming, agriculture, horticulture or floriculture; or

(d) Used primarily in the conditioning or holding of products produced for sale by farming, agriculture, horticulture or floriculture.

~~The foregoing exemptions do not apply to any article which~~Any tangible personal property that is incorporated into real property is not exempt under division (B)(17) of section 5739.02 of the Revised Code.

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~~Building materials such as lumber, nails, glass and similar items to be used in the construction or repair of buildings shall be subject to tax, unless they are used to build livestock or horticultural structures under divisions (B)(13) or (B)(36) of section 5739.02 of the Revised Code.

(C) Persons engaged in rendering farming, agricultural, horticultural, or floricultural services for others are deemed to be engaged directly in farming, agriculture, horticulture or floriculture. For example, a veterinarian providing services to a farmer's livestock is engaged in farming and can purchase the tangible personal property used in treating the livestock exempt from sales or tax.