

Industry and Association Guidance

Implement Dealers

The following are the Department of Revenue's responses to the Southwestern Association's specific inquiries regarding implement dealers.

Note: *This document was written in 2011. As you read this, be aware of the fact that some changes have been made to the statutory law since that time. These changes include the following:*

Separately stated usual and customary outbound freight / delivery charges are now exempt from sales tax, regardless of whether the charges are optional or mandatory.

Farm equipment used for agricultural purposes is now exempt even if equipment is not used exclusively for that purpose. Stated another way, farm equipment can be exempt if it has multiple uses, as long as at least one of those uses is agricultural.

Utility Vehicles used for agricultural purposes are now exempt. Section 144.030.2((22)(a) provides, "For the purposes of this subdivision, "utility vehicle" shall mean any motorized vehicle manufactured and used exclusively for off-highway use which is more than fifty inches but no more than eighty inches in width, measured from outside of tire rim to outside of tire rim, with an unladen dry weight of three thousand five hundred pounds or less, traveling on four or six wheels;

AUDIT PROCESS

The Department's tax auditors are authorized by Missouri state law to conduct compliance audits for sales, use, and withholding, corporate income and franchise tax. The Department makes every effort to conduct efficient audits that provide the least amount of interruption and inconvenience to the implement dealer as possible.

The audit period is generally limited to a three-year period, because of the three-year statute of limitations on filed returns. However, if returns have not been filed, there is no statute of limitations, and the auditor will examine at least five years of records. For example, if the business is filing sales tax returns, but is not filing consumer's use tax returns, the audit period will encompass the previous three years of sales records and at least the previous five years of purchase records.

The audit process begins with the auditor contacting the business by placing a phone call or by sending a letter. There is an initial inquiry of the business' accounting procedures and record retention. The auditor then schedules fieldwork and provides the business with an estimate of the time that the auditor plans to spend at the business location based upon the information obtained in the initial inquiry. To reduce the amount of time spent at the business location, the auditor will also request any electronic records or data files that can be provided prior to the fieldwork start date.

Prior to the first day of fieldwork, the auditor will provide the business contact with a list of records that must be available for review. The auditor will review those records with as little disruption to the day-to-day business as possible. If the volume of records is high, the auditor may suggest sampling the implement dealer's records and project the sample over the audit period rather than reviewing every transaction. This could include sampling sales transactions, purchase transactions, or both. Generally, in audits of implement dealers, the auditor would sample parts sales but examine all equipment sales.

During the examination of sales transactions, the auditor will reconcile the amount of sales made during the audit period per the dealer’s records with the amounts filed with the Department. The auditor will also review sales detail to verify whether valid claims of exemption have been accepted for items sold without tax and whether the dealer has taken those exemption certificates in good faith. *See* 12 CSR 10-101.500(2)(B), Burden of Proof. If the implement dealer is found to have taken a claim for exemption while having reason to believe that the item purchased will not be used for an exempt purpose, i.e., not in good faith, the dealer will be held liable for the tax whether the item is listed as usually taxable or usually exempt from tax under Missouri Code of State Regulation 12 CSR 10-110.900, Farm Machinery and Equipment Exemptions.

To claim the agricultural exemption, the farmer should provide a Form 149 to the dealer to keep on file. The farmer should check “Agricultural” in the “Other Sales/Use Exemptions” section. The form must be updated every five (5) years per Missouri Code of State Regulations 12 CSR 10-107.100, Use of and Reliance on Exemption Certificates. The farmer may name the specific items to be purchased exempt from the implement dealer in the section at the top of the form. If the farmer leaves this blank, the implement dealer may sell any items listed in the “Usually Exempt” section of 12 CSR 10-110.900, Farm Machinery and Equipment Exemptions, under the exemption certificate in good faith. But, any other items, including those listed in the “Usually Taxable” section of the regulation, will require a separate specific signed statement of exemption from the farmer if sold without tax. This separate specific statement of exemption may be printed on the sales invoice and signed, or a separate Form 149 for the specific item may be provided.

An example of an acceptable signed statement is:

I certify the items on this invoice will be used directly for producing farm products for ultimate sale at retail. If these items are not used for this purpose, I will be liable for the tax, interest, and penalty.

Signed _____

If the farmer gives the implement dealer an exemption certificate or signed statement claiming an exemption that the farmer is not entitled to claim, or if the farmer subsequently uses the tangible personal property in a manner inconsistent with the farmer’s claim of exemption, then the farmer is liable for the tax under 12 CSR 10-107.100. The farmer, not the dealer, must pay the tax if the dealer accepted the claim for exemption in good faith. The Supreme Court of Missouri has defined “good faith” as “honesty of intention, and freedom from knowledge of circumstances which ought to put the holder of the certificate upon inquiry.” If there is no claim of exemption on file, the implement dealer will be given an opportunity to obtain the certificate. If the exemption certificate cannot be obtained, the item may be held taxable in the audit.

During the examination of purchase transactions, the auditor will review invoices for all fixed assets acquired during the audit period. The auditor will also review invoices for expense purchases to determine that all applicable taxes were paid or accrued. During this review, the auditor determines if a business has purchased un-taxed items that were used internally by the business (e.g., not for resale) but did not accrue and remit tax. The auditor also reconciles the amount of use tax due per the dealer’s records to the amount filed with the Department, if applicable.

In addition to the examination of sales and purchase transactions, the auditor will also examine the state income tax withheld from the employee’s wages to determine if all amounts withheld were properly remitted to the Department. Federal and state income tax returns are also reviewed and reconciled to the dealer’s sales records to ensure all sales are being reported. If the dealer sells tires and batteries, the auditor will review the sales of these items and reconcile the tire and battery fees reported by the dealer to the dealer’s records. The auditor may also review the business records for corporate and franchise taxes.

Once fieldwork is complete, the auditor will provide a copy of the audit workpapers to the implement dealer. The dealer will be given time to review the audit workpapers and provide documentation to resolve any questionable items. The auditor will review the items in question with the dealer. After the review is complete, the audit is computed. If the dealer has concerns or questions at anytime during the audit process, the dealer may contact the auditor’s supervisor or manager.

The Department’s goal is to assist the dealer and simplify compliance with Missouri tax laws. This includes making the audit process as educational and beneficial to the dealer as possible.

MOWERS

Section 144.030.2(22), RSMo, exempts from sales tax “all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers.” To qualify for the exemption in Section 144.030.2(22), RSMo, the farm machinery and equipment must be:

- Used for agricultural purposes;
- Used on land owned or leased for the purpose of producing farm products; and
- Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail.

A lawnmower is equipment as defined by Missouri Code of State Regulation 12 CSR 10-110.900(2)(A), Farm Machinery and Equipment Exemptions. However, the regulation also provides under paragraph (3)(F)(7) that “machinery and equipment used for a dual purpose, one purpose being agricultural and the other being nonagricultural, are not exempt.”

Listed below are examples to clarify the statute and regulation:

Example 1: A farmer purchases a mower. The farmer only uses the mower to mow around grain bins that are used for storing grain to feed cattle that will be sold ultimately at retail. The farmer is not able to remove the grain from the bin to feed his cattle if the grass is not trimmed. The purchase of the mower is exempt from tax because the mower is used directly for agricultural production.

Example 2: A farmer purchases a mower. The farmer uses the mower to mow in a vineyard for the production of grapes. The purchase of the mower is exempt because it is used directly for agricultural production.

Example 3: A farmer purchases a mower. The farmer uses the mower both to mow in his orchard and to mow his lawn. The purchase of the mower is exempt to tax because one of the uses of the mower is directly for agricultural production. Note that historically the agricultural exemption was limited to equipment used solely for agricultural uses. The “sole use” requirement was removed from the statutes in August 2023.

FARM MACHINERY AND EQUIPMENT REPLACEMENTS

Section 144.030.2(22), RSMo, provides an exemption from sales tax for sales of new or used farm machinery and equipment, repair parts, and replacement parts. To qualify for the exemption in Section 144.030.2(22), RSMo, the farm machinery and equipment must be:

- Used for agricultural purposes;
- Used on land owned or leased for the purpose of producing farm products; and
- Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail.

12 CSR 10-110.900(2)(E), Farm Machinery and Equipment Exemptions, defines repair and replacement parts as:

Articles of tangible personal property that are components of machinery and equipment, which can be separated from the machinery or equipment and replaced. Like machinery and equipment, parts must have a degree of permanence and durability. Included in the repair and replacement part category are batteries, tires, fan belts, mufflers, spark plugs, oil filters, plow points, standard type motors, and cutting parts.

Equipment that was part of the original machinery and not essential to the operation of the machinery itself, such as cigarette lighters, radios, canopies, air-conditioning units, cabs, deluxe seats, tool or utility boxes, and lubricators, are not subject to tax when sold as part of the assembled farm machinery as set forth in 12 CSR 10-110.900(3)(F)(4), Farm Machinery and Equipment Exemptions. Note that this exemption also covers, items that were not part of the assembled farm machinery and were purchased subsequent to the original purchase of the farm machinery.

Listed below are examples to clarify the statute and regulation:

Example 1: An individual purchases a farm tractor and uses it in a manner that meets the requirements for the farm machinery

exemption. The tractor includes an AM/FM radio. At a later date, the radio is broken and is replaced. The replacement radio is not subject to tax because it is a replacement part for exempt farm machinery.

Example 2: An individual purchases a farm tractor that qualifies for the farm exemption. The tractor is not equipped with an AM/FM radio. The individual later adds an AM/FM radio. The radio is exempt from tax.

LABOR CHARGES IN CONJUNCTION WITH THE SALE OF TANGIBLE PERSONAL PROPERTY

Section 144.021, RSMo, provides that a seller's taxable sales are based on its "gross receipts." Gross receipts are defined in Section 144.010.1(3), RSMo, as the total selling price of the sale at retail including any services that are a part of the sale.

12 CSR 10-103.600(1), Sales of Tangible Personal Property and Services, provides, "When the sale of tangible personal property and a nontaxable service are not separable, the entire sale price is taxable if the true object of the transaction is the transfer of tangible personal property." The regulation goes on to provide, "If the purchaser obtains a service as part of a transaction in which the true object is the purchase of tangible personal property, the entire sale price is taxable even if the charge for the service is separately stated." 12 CSR 10-103.600(3)(C)(1).

Listed below are examples to clarify the statute and regulation:

Example 1: A business purchases hose in bulk and fittings to produce complete hydraulic hoses for sale to its customers. A customer brings in a blown hydraulic hose. This hose cannot be repaired and must be replaced. The business produces new hydraulic hoses rather than special order hydraulic hoses from suppliers. A new hydraulic hose consists of the hose and connectors. The business cuts the hose to the correct length and attaches the connectors using a machine to crimp the connectors on to the hose. The new hydraulic hose produced by the business is a replacement hose for the blown hose. The charge for the new hydraulic hose, including the charge for the labor to outfit the connectors to the hose, is subject to tax even if the labor to attach the connectors is separately stated. If a hydraulic hose is used on farm equipment, the entire charge is exempt.

Example 2: A customer brings in a hydraulic hose with a damaged connector. This hose can be repaired by attaching a new connector. The business attaches the connector using a machine to crimp the connector to the hose. The charge for the connector is subject to tax. The charge for the labor to repair the hose, which includes the charge for the use of the machine, is not subject to tax as long as the labor to attach the connector is separately stated. If the connector is used on farm equipment, tax should not be charged.

Example 3: Repairs are made on non-agricultural equipment. The mechanic installs the new parts and charges sixty dollars (\$60) for the parts and fifty dollars (\$50) for labor, which is separately stated on the invoice. Tax is due on the sixty dollars (\$60) charge for the parts.

INBOUND FREIGHT

Inbound freight is defined as a freight charge from a wholesaler to the implement dealer. In some instances it can involve a drop shipment from the wholesaler directly to the final consumer.

The taxability of inbound freight for sellers of equipment and parts is the same as the taxability of inbound freight for sellers of other tangible personal property, including the charge for the inbound freight for drop shipments. If the sale of the equipment and parts is taxable, the inbound freight is taxable. If the sale of the equipment and parts is exempt or excluded from tax, the inbound freight is also exempt or excluded from tax.

Section 144.010.1(4) defines "Gross Receipts", which is the measure of taxable receipts. This definition provides, in relevant part, "The term gross receipts shall not include usual and customary delivery charges that are separately stated from the sales price." Therefore, separately stated delivery charges are normally not subject to tax. However, this only applies to delivery charges from the implement dealer to the customer, or to a location selected by the customer. This exemption would not extend to delivery charges from a wholesaler to the implement dealer, which the implement dealer recoups from its customer.

Listed below are examples to clarify the above statements:

Example 1: A wholesaler sells a part to an implement dealer for \$1,000 plus a separately stated freight charge of \$50, for a total of \$1,050. The wholesaler delivers the part to the implement dealer. The dealer sells that same part to a farmer for \$1,200 plus a separately stated “inbound freight charge” of \$50, plus a separately stated “outbound freight charge” of \$30, for a total of \$1,280. Assuming that the part is not exempt or excluded from tax, the dealer should collect and remit tax on \$1,250. The \$50 inbound freight charge is taxable as a cost of the dealer acquiring the part. The \$30 outbound freight charge is not subject to sales tax.

Example 2: A wholesaler sells a part to a retailer for \$1,000 plus a separately stated freight charge of \$80, for a total of \$1,080. The retailer asks the wholesaler to drop ship the part directly to a farmer. The retailer bills the farmer for \$1,200 for the part, plus a separately stated freight charge of \$80. The farmer had no option to arrange for his own delivery from the wholesaler’s location. Assuming that the part is not exempt or excluded from tax, the retailer must collect and remit tax on \$1,200. The \$80 freight charge is exempt.

Example 3: A farmer purchases farm machinery which qualifies for the farm exemption under Section 144.030.2(22). The farmer issues an exemption certificate to the seller on the purchase of the farm machinery. Because the farm machinery is exempt from sales tax, any freight charges are also exempt from sales tax.

EXTENDED WARRANTIES

Extended warranties for non-agricultural equipment are treated like automotive extended warranties under 12 CSR 10-103.600, Sales of Tangible Personal Property and Services.

A manufacturer’s warranty is included in the sales price of the original item. The warranty includes replacement parts for no additional charge. Sales tax is due on the entire sale price of the original item. The replacement parts provided under the warranty are not subject to tax.

When the dealer sells an optional extended warranty beyond the manufacturer’s warranty and the sale price of the optional extended warranty is separately stated, the charge for the extended warranty is not subject to sales tax. The parts used to fulfill this extended warranty repair are subject to tax. The dealer’s purchase of the parts is subject to tax unless the customer is required to pay for the parts. If the customer pays for the parts, the dealer must collect and remit sales tax on the charge for the parts.

Listed below are examples to clarify the regulation:

Example 1: A customer purchases a new lawnmower for personal use. Along with the equipment, the customer purchases an optional extended warranty. The extended warranty is separately stated on the invoice. The extended warranty charge is not taxable.

Example 2: A customer brings equipment in for repair under an extended warranty. The extended warranty covers labor only. The equipment does not qualify for the agricultural exemption. The parts used to repair the equipment are billed to the customer. The dealer must collect tax on the sales price of the parts used to repair the equipment.

Example 3: A customer brings equipment in for repair under an extended warranty. The extended warranty includes parts for no additional charge to the customer. The equipment does not qualify for the agricultural exemption. The dealer must pay tax on its purchase of the parts or self-accrue tax on the cost of the parts if removed from inventory.

Implement dealers who have questions may contact the Department at (573) 751-2836. For other contact information, please access the Department’s website at <http://dor.mo.gov/contact/>.