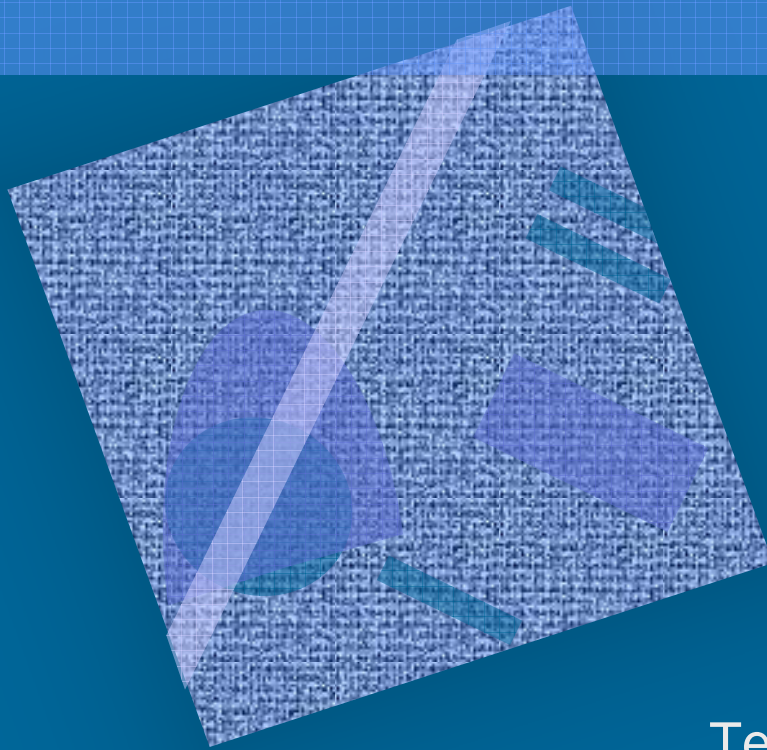


# 2008 – 2009 Changes in Tennessee's

## *Sales & Use Tax Laws*

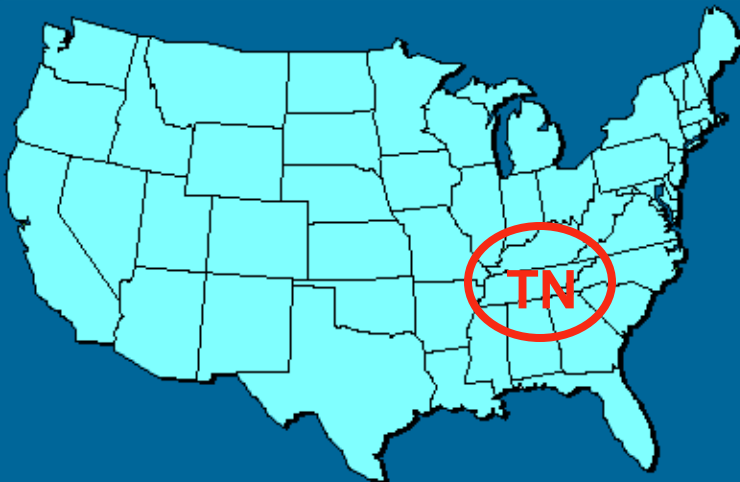


[www.Tennessee.gov/revenue](http://www.Tennessee.gov/revenue)

Tennessee Department of Revenue  
(615) 253-0752  
(877) 250-2299

# Tennessee Status

- Tennessee is an associate-member state of the Streamlined Sales and Use Tax Agreement.



- Sales and use tax changes in Tennessee

– Some law changes were effective **January 1, 2008**, and others are scheduled to take effect **July 1, 2011** (PC 530, Acts of 2009).

– PC 602, Acts of 2007

– PC 1106, Acts of 2008

(Available on the Department of Revenue's website)

# *New Definitions*

## *Effective January 1, 2008*

Sales price

Purchase price

Delivery charges

Direct mail

Lease or rental

Computer software

Prewritten computer  
software

Drug

Over-the-counter Drug

Grooming and hygiene products

Prosthetic device

Durable medical equipment

Mobility-enhancing equipment

Prescription

Prepared food

# *New Definitions*

Effective January 1, 2009

- Specified digital products
- Digital audio-visual works
- Digital audio works
- Digital books



Effective July 1, 2009

- Computer software maintenance contract

# *Sales Price*

Means total amount paid or charged for tangible personal property or services

Includes:

- Costs of property, materials, labor, services and transportation to the seller
- Expenses of the seller
- Taxes imposed on the seller



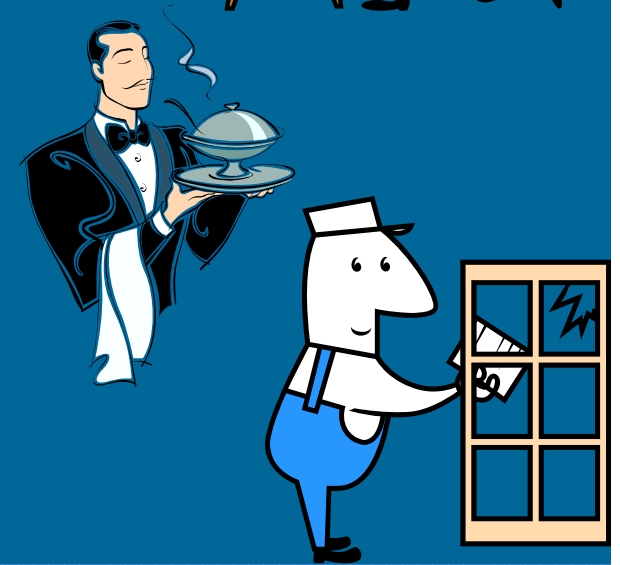
# *Sales Price*

- Includes any charges by a seller for any services necessary to complete the sale
- Includes delivery charges except delivery charges for direct mail
- Includes installation charges

# *Sales Price*

- Sales price continues to include:

1. Towing or service call charges that are provided in connection with repair services
2. Document preparation fees associated with the sale of an item
3. Mandatory payments for tips or gratuities with the sale of a meal



# *Price – Delivery Charges*

Effective January 1, 2008, sales price includes delivery charges even if separately itemized.

- Delivery charges made by a seller for preparation and delivery of goods or services to a location designated by the purchaser.
- Charges include, but are not limited to: postage, transportation, freight, shipping, handling, crating, packing and preparation for mailing or delivery.



# *Delivery Charges*

## *Important Notice 07-20*

If property or service is...

- subject to tax, then the delivery charge made by the seller for delivering the property or service is subject to sales tax.
- not subject to tax, then the delivery charge made by the seller for delivering the property or service is not subject to tax.
- delivered by an independent third-party hired by the buyer and the delivery charges are made to the buyer, then delivery charges are not made by the seller and are not subject to tax.

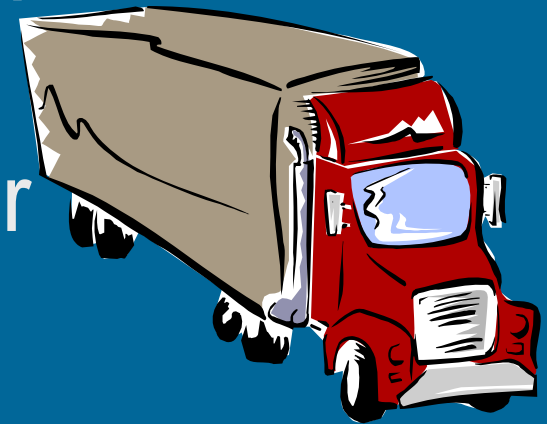
# *Delivery Charges for Direct Mail*

- Effective January 1, 2008, sales price does not include delivery charges for direct mail such as postage or mailing services if separately itemized.
- Direct mail is printed material mailed or distributed to a mass audience and the recipients are not billed for the price of the printed materials.
- Examples of printed materials include:
  - advertising materials such as catalogs, magazines, fliers, handbills, and coupons
  - business correspondence such as account statements, invoices, proxy notices



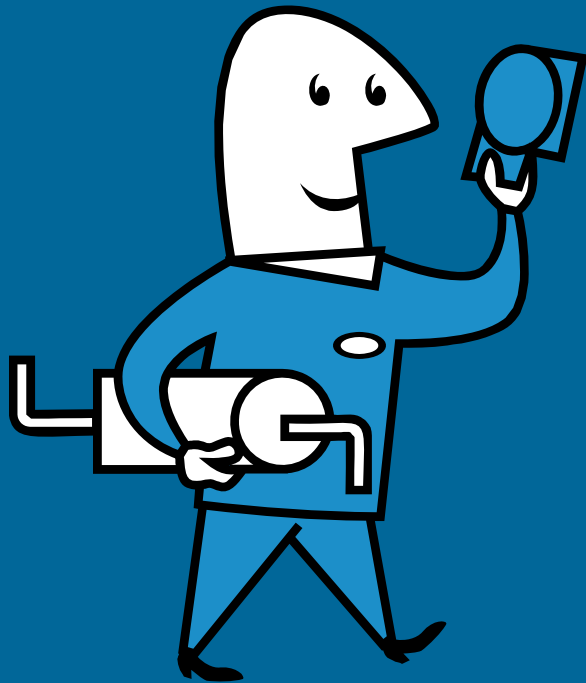
# *Stand-alone Shipping*

- Transportation services provided by passenger or cargo transportation companies or messenger services are nontaxable services in Tennessee.



# *Price - Installation Charges*

- Sales price includes installation charges



Still taxable if item  
remains tangible  
personal property

# *Sales or Purchase Price*



- Sales price **does not** include:
  - Cash discount for payment within a period of time.
  - Interest and financing charges on purchases bought on installment plans.
  - Taxes imposed directly on purchasers and stated separately on invoice.
  - Trade-in credit.

# Price - Discounts

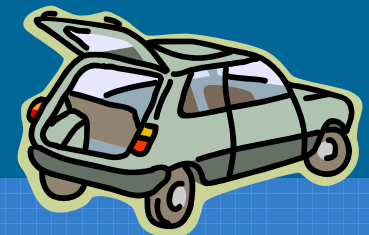
- Sales price includes consideration received by a seller from a third party on:

- Manufacturer coupons redeemable at any seller and discount given to purchaser
- Mail-in rebates not given by the seller
- Motor vehicle cash rebates



- Sales price does not include consideration received by a seller from a third party on:

- Volume discounts
- Cigarette buy-downs
- Advertising incentives
- Motor vehicle manufacturer's incentives



# *Leases or Rental*

- Any transfer of possession or control of tangible personal property for a fixed or indeterminate term
- Does not include a transfer:
  - of title upon payment
  - of title with optional \$100 or 1% payment
  - along with an operator



# *Lease or Rental*

## *Important Notice 07-15*

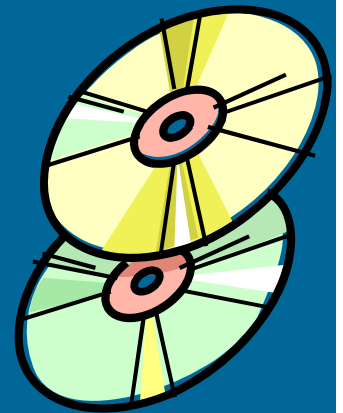
- Effective January 1, 2008, a transaction that requires the transfer of title of property upon completion of required periodic payments and an optional final payment that does not exceed the greater of \$100 or 1% of the total required payments is a sale and not a lease or rental.
- The sales price of the property is subject to tax, and the periodic payments are not subject to tax.
- This change does not apply to contracts or agreements in effect prior to January 1, 2008.

# *Computer Software*

Sales, leases, or licenses of computer software **continue** to be subject to tax.

Computer Software modifications, fabrication, programming, upgrades, installation, repairs and computer software maintenance contracts **continue** to be subject to tax.

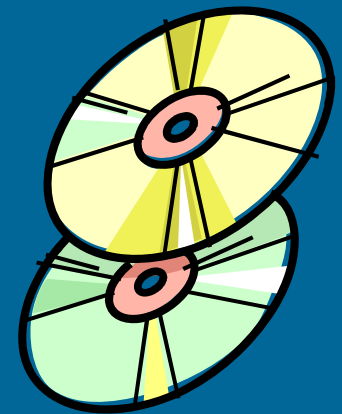
- Computer software includes customized and prewritten computer software.



# *Prewritten Computer Software*

Prewritten computer software means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser

- Prewritten computer software is tangible personal property and is subject to the single article local tax limitation and additional state tax on single articles.
- Customized software is subject to the full state and local tax.



# *Medical Definitions*

- Drugs
- Over-the-counter drugs
- Grooming and hygiene products
- Prosthetic Devices
- Durable medical equipment
- Mobility enhancing equipment



Adopting new definitions for medical equipment has caused a **change in the taxability** of some items.

# *Drug*

## *Important Notice 07-18*

A compound, substance or preparation, and component, other than food, dietary supplements or alcoholic beverages:

- Intended for diagnosis, cure mitigation, treatment, or prevention of disease
- Affects structure or function of body
- Prescriptions for human use **continue to be exempt from tax**



# *Over-the-counter Drug*

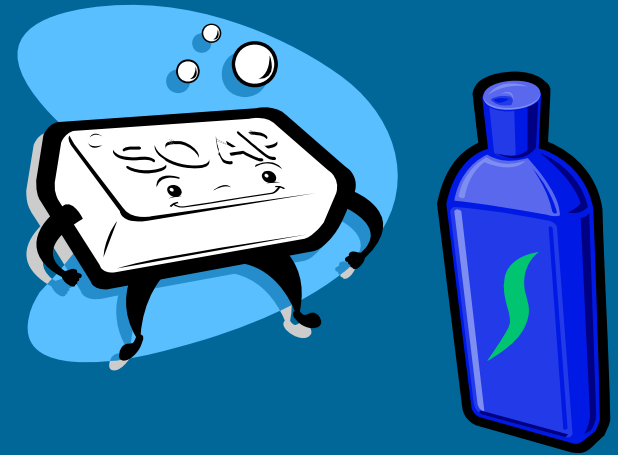
A drug that contains a label (drug facts panel or active ingredients statement) that identifies it as a drug

- Does not include grooming and hygiene products that can be purchased without a prescription
- Dispensed with a prescription for human use continues to be exempt from tax



# *Grooming and Hygiene Products*

- Soaps
- Cleaning solutions
- Shampoos
- Toothpaste
- Mouthwash
- Antiperspirants
- Sun lotions and screens



Grooming and hygiene products that are not legend drugs continue to be subject to tax.

# *Prosthetic Devices*

## *Important Notice 07-22*

- Worn on or in the body
- Artificially replace missing portion of body
- Prevent or correct a physical deformity or malfunction
- Support a weak or deformed part of the body
- Include repair and replacement parts

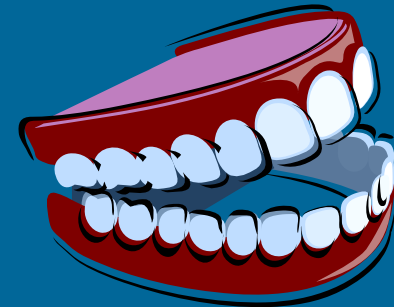
Effective January 1, 2008, the change for Tennessee is a prosthetic must be worn on or in the body.

Prosthetic devices are exempt from tax regardless whether sold pursuant to a prescription.

# *Prosthetic Devices*

Examples of prosthetic devices include:

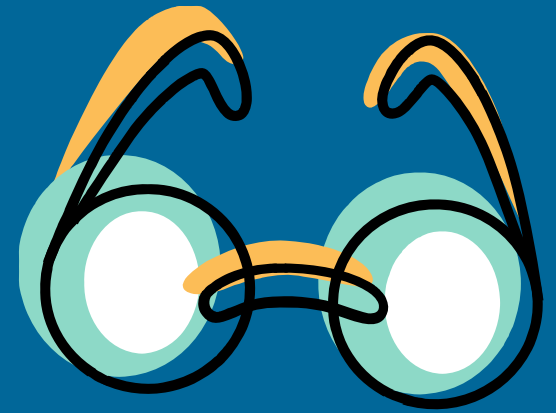
- Artificial arms and legs
- Necessary items worn to wear an artificial limb
- Hearing aids
- Dental prosthesis
- Insulin pumps
- Ankle braces
- Molded orthopedic shoes
- Pacemakers
- Heart valves



A [Healthcare Product List](#) is available on the Web site.

# *Prosthetic Devices*

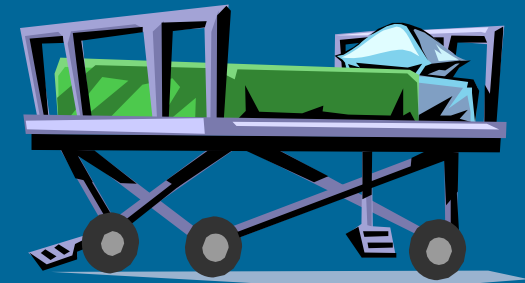
- Prosthetics **do not** include:
  - Corrective eyeglasses
  - Contact lenses
- Optometrists continue to pay tax on the purchase price of corrective eyeglasses and contact lenses, and charges to their patients are not subject to tax.



# *Durable Medical Equipment*

## *Important Notice 07-22*

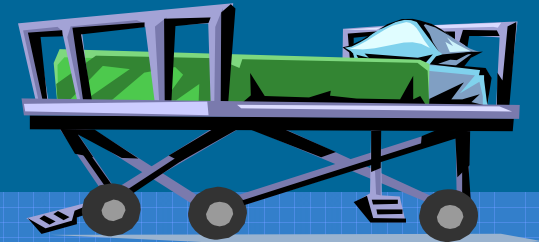
- Equipment that can stand repeated use
  - Primarily serves a medical purpose
  - Not worn in or on the body
  - Does not include disposable medical supplies
  - Includes repair and replacement parts
  - Replacement parts does not include parts or attachments that are for single patient use
- 
- Hospital beds – now DME
  - Ultrasound
  - Humidifier
  - IV poles
  - Blood pressure equipment
  - Blood glucose monitor
  - Nebulizer
  - X-ray



A [Healthcare Product List](#) is available on the Web site.

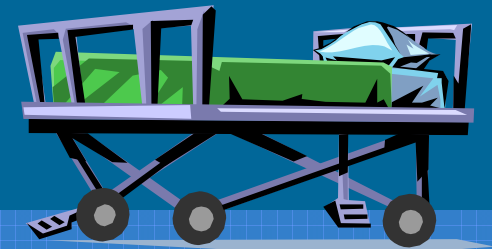
# *Durable Medical Equipment*

- Effective January 1, 2008, DME for home use sold with a prescription is exempt from tax.
- DME purchased by for-profit hospitals, physicians, nursing facilities, and emergency treatment facilities continue to be subject to tax.
- DME purchased by pharmacies and home health care providers for use in providing outpatient health care services in the home of a patient continue to be subject to tax.
- DME generally understood and intended to be used outside the home does not qualify for the home use exemption.



# *Durable Medical Equipment*

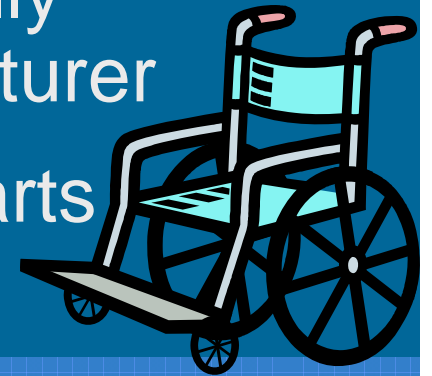
- Specific exemption from tax for any purchase of:
  - **Oxygen delivery equipment**, repair parts and repair services, attachments for use with equipment that are single patient use, and disposable medical supplies necessary to administer or deliver medical oxygen for human use
  - **Kidney dialysis equipment** for use in the treatment of humans, repair parts and repair services, attachments for use with equipment that are single patient use
  - **Enteral feeding systems** for use in the treatment of humans, repair parts and repair services, attachments for use with equipment that are single patient use



# *Mobility Enhancing Equipment*

## *Important Notice 07-22*

- Primarily used to increase ability to move from one place to another
- Appropriate for use in home or auto
- Not for persons with normal mobility
- Does not include motor vehicle or equipment on motor vehicle normally provided by motor vehicle manufacturer
- Includes repair and replacement parts



# *Mobility Enhancing Equipment*

- Effective January 1, 2008, mobility enhancing equipment sold with a prescription for human use is exempt from tax.
  - Wheelchairs
  - Canes
  - Crutches
  - Grab bars
  - Chair lifts
  - Walkers
  - Controls installed on motor vehicles
  - Motorized carts

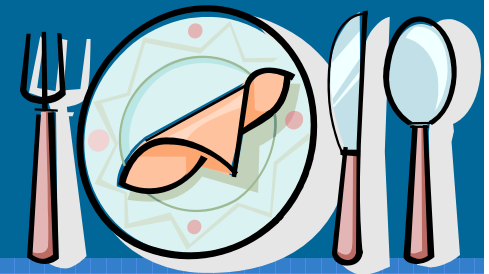


A [Healthcare Product List](#) is available on the Web site.

# *Prepared Food*

Effective January 1, 2008, amended definition for prepared food clarifies:

- Ingredients mixed or combined by seller that contain raw animal foods requiring cooking by the consumer are no longer prepared food and are taxed at the reduced tax rate on food.
- When eating utensils are provided by the seller with food and taxable at the full tax rate.



# *Specified Digital Products Definitions*



## **Electronically Transferred:**

- **Digital Audio-Visual Works** – a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any,
- **Digital Audio Works** – works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones, and
- **Digital Books** – works that are generally recognized in the ordinary and usual sense as “books”

**NEW!**

# *Specified Digital Products*

Specified digital products include:

- **Digital audio-visual works** – motion pictures, musical videos, news programs, entertainment programs, and live events
- **Digital audio works** – prerecorded or live: songs, music, readings of books or other written materials, speeches, ringtones, or other sound recordings
- **Digital books** – works of fiction and nonfiction, and short stories

Specified digital products **does not** include:

- Video or audio greeting cards sent by email
- Video or electronic games
- Digital newspapers
- Digital magazines or periodicals
- Chat room discussions or weblogs
- Satellite radio services
- Data processing and information services
- Individual digital photographs



**NEW!**

# *Specified Digital Products*

- Effective January 1, 2009 sales to Tennessee customers to electronically transfer, access or download specified digital products and sales of digital codes for receiving or accessing specified digital products are taxable.
- Specified digital products are subject to state tax rate of 7% and a standard local tax rate of 2.5% regardless of applicable local tax rate.
- Specified digital products are exempt from tax if the equivalent product in tangible form is exempt from tax. (For example, sales of digital textbooks are exempt since sales of printed textbooks are exempt.)



# *Other Changes*



*Food – 5.5% State Tax Rate*  
*Caskets*  
*Agricultural*  
*Veterinarians*  
*Residential Energy Fuel*  
*Motor Vehicle – Armed Forces*  
*Telecom – Internet Access*  
*Club Membership Dues*

# *Food and Food Ingredients*

## *Important Notice 07-14*

Effective January 1, 2008, the state tax rate on sales of food and food ingredients is reduced from 6% to 5.5%

Food and food ingredients do not include:

- Prepared food
- Dietary supplements
- Candy
- Alcoholic beverages
- Tobacco



# *Caskets and Burial Vaults*

## *Important Notice 07-16*

### First \$500 of Price of a Casket or Burial Vault

- BEFORE – Sales Tax
  - First \$500 exempt from state and local tax
- Effective January 1, 2008
  - Total price subject to state and local tax



# *Agricultural Exemption Important Notice 07-12*

- Effective January 1, 2008, Farmers, timber harvesters and nursery operators must qualify for and receive an Agricultural Certificate of Exemption to make tax-exempt agricultural purchases.
- After December 31, 2007, the farmer and nursery operator affidavit **cannot** be used to make tax-exempt agricultural purchases.
- Certain agricultural exemptions have been expanded for those qualifying for the new Agricultural Certificate of Exemption.



# *Qualifications for Agricultural Exemption*

Must meet one or more of these criteria:

- Own or lease land where \$1,000 or more agricultural products were produced and sold
- In business of providing for-hire ag services
- Own land qualifying for taxation under T.C.A. § 67-5-1001 as “Greenbelt Land”
- Federal filer of Schedule F, or farm rental activity on Form 4835 or Schedule E
- Establish to commissioner that you are actively engaged in the business of raising, harvesting or producing agricultural commodities



# *Agricultural Exemption Farm Machinery*

## Farm Machinery Costing Less Than \$250

- BEFORE – Sales Tax
  - Subject to state and local tax
- Effective January 1, 2008
  - Exempt from sales and use tax



# *Agricultural Exemption Farm Machinery - ATVs*

Effective January 1, 2008, qualified persons no longer required to pay tax on the purchase of ATVs and upon approval obtain a refund from the seller.

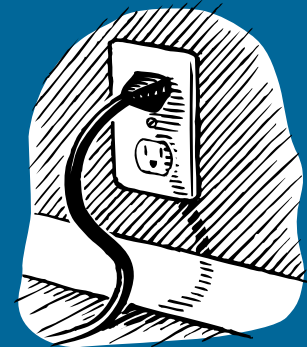
- ATVs treated the same as other machinery and equipment used directly and principally in production of agricultural and nursery products for sale and consumption off the premises.



# *Agricultural Exemption Electricity and Liquefied Gas*

Electricity, natural gas, liquefied gas, coal, wood, wood products, wood by-products and fuel oil used as energy fuel

- BEFORE – Sales Tax
  - Taxed at 1.5% state rate and no local tax
- Effective January 1, 2008
  - Exempt from sales and use tax



# *Agricultural Exemption Dyed Diesel Fuel*

- Gasoline and diesel fuel used for agricultural purposes purchased by a qualified person continue to be exempt from sales and use tax.
- Agricultural purpose includes cutting and harvesting trees.
- Effective January 1, 2008, dyed diesel fuel used in vehicles and logging equipment (not operated on public highways) used to harvest timber is exempt.



# *Agricultural Exemption Tax Responsibility*

## Farmers/Nurserymen

- Must use machinery for ag purposes
- Supplies must be used to produce ag or horticulture products
- Cannot allow other people to use exemption certificate

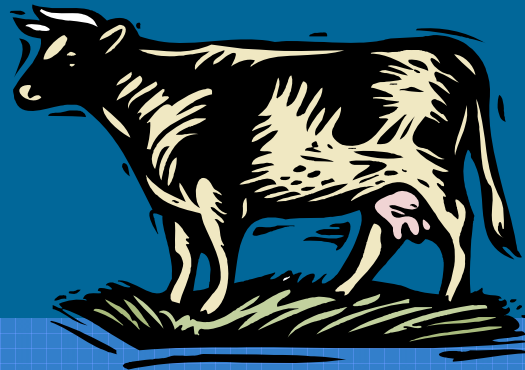
## Sellers/Vendors

- Must have copy of certificate or card on file
- Billings must have name, address, and product descriptions

# *Veterinarians*

## *Important Notice 08-01*

- Veterinarian purchases of livestock drugs and instruments used to administer livestock drugs **continue** to be tax exempt.
- Veterinarians must provide a completed copy of the newly adopted **Streamlined Sales Tax Certificate of Exemption** to sellers to purchase the livestock drugs and instruments tax free.



# *Residential Energy Fuel Important Notice 07-17*

- Energy fuel delivered to the home for residential use **continues** to be exempt.
- Energy fuel sold over the counter at the location of the seller is subject to state tax **except**:
  - Propane sold for residential use in a container of 100 lbs. or more is exempt, and
  - **Effective June 5, 2008**, kerosene sold through a blocked pump which is a dispenser that prevents delivery directly from the dispenser into a vehicle fuel supply tank is exempt.



Documentation is **required** for residential use exemption.



# *Kerosene Fuel*

## *Important Notice 08-04*

- Effective June 5, 2008, kerosene sold through a blocked pump which is a dispenser designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank is exempt. The exemption applies to all such purchases regardless of the purchaser's use.
- Sales of kerosene that are **not** dispensed through a blocked pump and over-the-counter sales of prepackaged containers of kerosene continue to be taxable at the state rate of 7% unless other exemptions apply.

Other exemptions include:

- Kerosene delivered to the home for residential use is exempt.
- Kerosene sold to qualified farmers and nurserymen for use directly in production of agricultural or horticultural products is exempt.
- Kerosene sold to qualified manufacturers that is not dispensed through a blocked pump is taxable at a reduced state rate of 1.5%.

# *Armed Forces Members* *Important Notice 07-07*

Effective June 28, 2007, statute amended to expand eligibility for members of Armed Forces to make tax-exempt purchases of motor vehicles

# *Motor Vehicles Sold to Armed Forces Members*

- Eligible purchasers who are engaged in **active full-time military service stationed in Tennessee**:
  - Army, Navy, Air Force, Marine Corps, Coast Guard
  - Tennessee National Guard who participate AGR
  - Reserve members of Army, Navy, Air Force, Marine Corps, Coast Guard who participate AGR(Stationed in Tennessee includes Fort Campbell, Kentucky)
- Eligible purchasers who are called into **active duty and stationed in a combat zone**:
  - Tennessee National Guard
  - Reserve members of Army, Navy, Air Force, Marine Corps, Coast Guard(Exemption period expires **90 days** after date of release from combat zone)

# *Motor Vehicles Sold to Armed Forces Members*

- Vehicles that qualify for exemption include:
  - Motor vehicles defined in T.C.A. § 55-1-103(3)
  - Motor vehicles titled and registered in Tennessee under Title 55 in the name of qualifying individual or jointly with spouse or lineal relative
  - Off highway motor vehicles defined in T.C.A. § 55-1-101(c)
  - Mobile homes and house trailers
- Vehicles that **do not** qualify for exemption include:
  - Leased or rented motor vehicles
  - Vehicles that are not defined as motor vehicles (trailers and semi-trailers)
  - Motor vehicles not registered under Title 55 (farm tractor)
  - Manufactured homes

# *Telecom - Internet Access*

## *Important Notice 07-21*

Effective November 1, 2005,  
telecommunication services ...

- purchased or used by an ISP to provide Internet access are exempt from tax.
- sold by an ISP to provide Internet access are exempt from tax.

Taxpayers may file claims for refunds for sales taxes billed on or after November 1, 2005, once collected taxes have been refunded to customers.

# *Telecom. – Internet Access*

- Telecommunication services not used by an ISP to provide Internet access continue to be subject to tax. Examples include:
  - Telephone Service
  - Cellular Service
  - Paging Service
  - Facsimile Service
- Voice over Internet protocol (VOIP) continues to be subject to tax.



# *Club Membership Dues* *Important Notice 08-08*

## First \$150 in Annual Membership Dues

- **BEFORE – Sales Tax**
  - First \$150 of annual dues exempt from state and local tax
- **Effective July 1, 2008**
  - Total price for annual club membership dues subject to state and local tax



# *Questions*

