

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING # 11-67**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

The applicability of the Tennessee sales and use tax to sales of lawnmowers made to qualified farmers or nurserymen.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department, and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[NAME OF TAXPAYER] (the “Taxpayer”) operates [REDACTED] in Tennessee. The Taxpayer sells the [BRAND NAME] line of lawnmowers, including the [MODEL NUMBERS] (the “[BRAND NAME] Lawnmowers”). The models sold by the Taxpayer have a horsepower range of 22-37hp and feature decks between 48 and 72 inches.

RULING

Are the Taxpayer’s sales of [BRAND NAME] Lawnmowers to qualified farmers or nurserymen exempt for purposes of the Tennessee sales and use tax under TENN. CODE ANN. § 67-6-207(a)(1) (2011)?

Ruling: No. The sale of a [BRAND NAME] Lawnmower does not qualify for the exemption under TENN. CODE ANN. § 67-6-207(a)(1) (2011) because lawnmowers of this type are not used directly and principally for the purpose of producing agricultural and nursery products for sale and use or consumption off the premises.

ANALYSIS

Sales of [BRAND NAME] Lawnmowers

The sale of a [BRAND NAME] Lawnmower does not qualify for the exemption under TENN. CODE ANN. § 67-6-207(a)(1) (2011).

Under the Retailers’ Sales Tax Act, TENN. CODE ANN. § 67-6-101 *et seq.*, the retail sale of tangible personal property in Tennessee is generally subject to the sales and use tax.¹ Because lawnmowers are tangible personal property, the retail sale of a lawnmower will be subject to the Tennessee sales and use tax unless an exemption from taxation applies.

TENN. CODE ANN. § 67-6-207 (2011) provides various exemptions for sales to qualified farmers or nurserymen² of certain farm equipment, machinery, and other agricultural items. In particular,

¹ The term “retail sale” is defined to include “any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.” TENN. CODE ANN. § 67-6-102(78) (2011). “Tangible personal property” is defined in pertinent part as “personal property that can be seen, weighed, measured, felt, or touched, or that is in any manner perceptible to the senses.” TENN. CODE ANN. § 67-6-102(91)(A).

² TENN. CODE ANN. § 67-6-207(e) provides that the term “qualified farmer or nurseryman” means “a person who meets one (1) or more of the following criteria: (1) The person is the owner or lessee of agricultural land from which one thousand dollars (\$1,000) or more of agricultural products were produced and sold during the year, including payments from government sources; (2) The person is in the business of providing for-hire custom agricultural services for the plowing, planting, harvesting, growing, raising or processing of agricultural products or for the maintenance of agricultural land; (3) The person is the owner of land that qualifies for taxation under the Agricultural Forest and Open Space Land Act of 1976, compiled in chapter 5, part 10 of this title; (4) The person's federal income tax return contains one (1) or more of the following: (A) Business activity on IRS schedule F, profit or loss from farming; and (B) Farm rental activity on IRS form 4835, farm rental income and expenses or schedule E, supplemental income and loss; and (5) The person otherwise establishes to the satisfaction of the commissioner that the person is actively engaged in the business of raising, harvesting or otherwise producing agricultural commodities as defined in § 67-6-301(c)(2).”

TENN. CODE ANN. § 67-6-207(a)(1) exempts “[a]ny appliance used directly and principally for the purpose of producing agricultural products, including nursery products, for sale and use or consumption off the premises, but excluding an automobile, truck, household appliances or property that becomes real property when erected or installed.”

Thus, for the sale of a lawnmower to be exempt under TENN. CODE ANN. § 67-6-207(a)(1), the following requirements must be met: 1) the sale is made to a qualified farmer or nurseryman; 2) the lawnmower is properly considered an appliance; and 3) the lawnmower will be used directly and principally for the purpose of producing agricultural and nursery products for sale and use or consumption off the premises.

This ruling will not discuss the first two requirements, because the third requirement is not met. The [BRAND NAME] Lawnmower line is for use in groundskeeping, maintenance of transportation pathways, cutting brush to install fence lines, mowing, and similar activities. While such uses may indirectly aid the purchaser in producing agricultural and nursery products, the lawnmower in such instances is not used *directly and principally* for the purpose of producing the products.

Accordingly, the sale of a [BRAND NAME] Lawnmower does not qualify for the exemption under TENN. CODE ANN. § 67-6-207(a)(1).

Kristin Husat
Director of Legal Services

APPROVED: Richard H. Roberts
Commissioner of Revenue

DATE: 12/06/2011