**103 KAR 30:091. Sales to farmers.**

RELATES TO: KRS 139.260, 139.470, 139.480
STATUTORY AUTHORITY: 131.130(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 139.010, 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. KRS 139.480 exempts specified property from sales and use taxes. This administrative regulation establishes the sales and use tax requirements for sales to farmers.

Section 1. Definitions (1) "Attachments" means tangible personal property that:
(a) Is necessary for the operation of farm machinery and is purchased primarily to improve efficiency to diversify the function which the machinery is capable of performing; and
(b) Includes replacement attachments, or repair or replacement parts for the attachments.
(2) "Crops" means plants, trees, or shrubs grown for sale, including corn, hay, tobacco, soybeans, wheat, straw, fruit, vegetables, timber, and flowers.
(3) "Farmer" means any person that is regularly engaged in the occupation of:
(a) Tilling and cultivating the soil for the production of crops as a business;
(b) Raising livestock or poultry, if the livestock or poultry, or the products of the livestock or poultry, are for sale;
(c) Producing milk for sale; or
(d) Breeding or producing:
1. Ratites;
2. Llamas or alpacas;
3. Buffalos;
4. Aquatic organisms; or
5. Cervids.
(4) "Farm machinery" is defined by KRS 139.480(11).
(5) "Livestock" means animals of a kind the products of which ordinarily constitute food for human consumption.
(6) "On-farm facility" means property used in the pursuits provided under KRS 139.480 as follows:
(a) Fencing or structures permanently affixed to or installed on the premises of the property;
(b) Improvements to real property such as ponds;
(c) Any materials incorporated into the construction, renovation, or repair of the fencing, structures or improvements described in paragraph (a) or (b); and
(d) Any equipment, machinery, or attachments including repair or replacement parts for the equipment, machinery, or attachments used in the operation of the facility.
(7) "Person" is defined by KRS 139.010(19).

Section 2. The examples of taxable and nontaxable items contained in this administrative regulation shall be used for illustrative purposes only and are not intended to be all inclusive.

Section 3. Farm Machinery. In addition to the more commonly recognized items that are classified as "farm machinery", the list provided in this section shall serve as examples of the items that shall qualify for exemption if used exclusively and directly for farming as provided in KRS 139.480(11):
(1) All terrain vehicles (ATV) or utility vehicles;
(2) Automatic or portable feeding equipment including:

(a) Livestock creep feeders; and
(b) Poultry feeders;
(3) Automatic egg gathering systems;
(4) Automatic washers;
(5) Automatic waterers;
(6) Brooders;
(7) Bulk tanks (mechanical);
(8) Bush hogs;
(9) Chain saws;
(10) Cleaning machinery (mechanical);
(11) Clippers for livestock;
(12) Coke stoves for curing tobacco;
(13) Cooling units or cooling fans;
(14) Egg processing machinery;
(15) Farm wagons;
(16) Grain or hay elevators;
(17) Hay mowers;
(18) Heaters (portable);
(19) Incubators;
(20) Insecticide sprayers (hand-held);
(21) Irrigation systems;
(22) Log splitters;
(23) Milking machines;
(24) Posthole diggers (mechanical);
(25) Roller mills;
(26) Seed sowers (automatic);
(27) Shop welders or other machinery (mechanical) used exclusively to maintain other farm machinery;
(28) Silo unloaders (augers);
(29) Tilt table for livestock;
(30) Tobacco curing machinery;
(31) Tobacco setter;
(32) Tobacco transplant system machinery, including:
(a) Clipping equipment;
(b) Heating equipment;
(c) Injector systems;
(d) Seeding equipment; and
(e) Ventilation equipment; or
(33) Tractor mounted sprayer.

Section 4. Exempt Chemicals. In addition to more commonly recognized items that are classified as "farm chemicals", the list provided in this section shall serve as examples of items that shall qualify for the farm chemical exemption as provided in KRS 139.480(8):
(1) Adjuvant to enhance herbicide coverage of crops;
(2) Antiseptic wipes to clean cows’ udders;
(3) Insecticidal dipping chemicals;
(4) Insecticidal ear tags;
(5) Lime or hydrated lime for disinfectant;
(6) Methyl bromide gas or similar tobacco chemicals; or

(7) Seed flow enhancers to optimize seed planting and spacing, including talc or graphite.

Section 5. Exempt Feed. The list provided in this section shall serve as examples of items that shall qualify for the feed and feed additive exemptions as provided in KRS 139.480:
(1) Bag or block salt;
(2) Dietary supplements as a feed additive;
(3) Fish pellets, grain, corn gluten, peanut hulls, soybean hulls, or distiller's grain;
(4) Milk replacer;
(5) Mineral blocks;
(6) Protein blocks;
(7) Protein supplements; or
(8) Special medicated feed pre-mixes.

Section 6. On-farm Facilities. The list provided in this section shall serve as examples of items the sale or purchase of which shall qualify for the exemption provided for all on-farm facilities under KRS 139.480:
(1) Branding iron heaters or irons;
(2) Bucket racks;
(3) Building materials, including:
(a) Concrete;
(b) Gravel;
(c) Guttering;
(d) Insulation;
(e) Lumber;
(f) Nails;
(g) Paint;
(h) Rock;
(i) Roofing materials; or
(j) Sand;
(4) Culvert pipe;
(5) Drainage tile;
(6) Erosion mats;
(7) Farm gates;
(8) Feeding system materials or equipment, including:
(a) Feed buckets;
(b) Feed bunks for farm wagons;
(c) Hoses;
(d) Nozzles;
(e) Pipelines;
(f) Round bale feeders;
(g) Salt or mineral feeders; or
(h) Tubes;
(9) Fencing materials, including:
(a) Cattle guards;
(b) Fence chargers;
(c) Insulators or other components used in an electrical fence system;
(d) Planks;
(e) Posts;
(f) Staples; or

(g) Wire;
(10) Handling facilities, including:
(a) Corral panels, chutes, or sweeps;
(b) Farrowing crates;
(c) Headgates; or
(d) Holding crates or hutches;
(11) Insect control (electric);
(12) Livestock oilers;
(13) Manure pit for livestock;
(14) Pond sealers;
(15) Silos, silo covers, or silage covers;
(16) Water hydrants or water tanks; or
(17) Water pipe including plastic or other material.

Section 7. Packaging Materials. The list provided in this section shall serve as examples of items the sale or purchase of which shall be exempt from sales and use tax if used in the packaging of products for sale, in addition to the exemption provided for twine and wire used for baling hay and straw in KRS 139.480(27):
(1) Bags or sacks;
(2) Baskets;
(3) Crates;
(4) Shrink wrap; or
(5) Net wrap

Section 8. Farm Work Stock. The list provided in this section shall serve as examples of farm work stock the sale or purchase of which shall be exempt from sales and use tax as provided in KRS 139.480(6):
(1) Donkeys or burros;
(2) Draft horses;
(3) Guard dogs, including the Pyrenees or Polish Tatra breeds, to protect sheep, goats, or other livestock;
(4) Herd dogs for herding sheep, cattle, or other livestock;
(5) Jacks; or
(6) Mules.

Section 9. Attachments, Repair and Replacement Parts. (1) Attachments sold or purchased for use on farm machinery which are necessary to the operation of the farm machinery shall be exempt from sales and use tax. The list provided in this subsection shall serve as examples of items of sale or purchase of which shall be exempt from sales and use tax:
(a) Dual wheel assemblies;
(b) Hitches;
(c) Hydraulic systems;
(d) Water tanks; or
(e) Weights.
(2) Repair and replacement parts sold or purchased for use on farm machinery which are necessary to the operation of the machinery shall be exempt from sales and use tax. The list provided in this subsection shall serve as examples of items the sale or purchase of which shall be exempt from sales and use tax:
(a) Batteries;

(b) Bolts;
(c) Chain saw repair parts;
(d) Cutting parts;
(e) Fan belts;
(f) Farm machinery filters;
(g) Miscellaneous motor repair part;
(h) Mufflers;
(i) Plow points;
(j) Spark plugs;
(k) Springs;
(l) Tires; or
(m) V-belts.

Section 10. Taxable Items. The list provided in this section shall serve as examples of items commonly used on farms, the sale or purchase of which shall not be exempt from the sales or use tax as provided by KRS 139.480:
(1) Hand tools or wholly hand-operated equipment, including:
(a) Axes;
(b) Barn brooms;
(c) Barn forks;
(d) Brooms;
(e) Drench guns;
(f) Grease guns;
(g) Hoes;
(h) Jacks (manual or electronic);
(i) Ladders;
(j) Pitchforks;
(j) Pliers;
(k) Post hole diggers (manual);
(l) Rakes;
(m) Shovels;
(n) Tobacco balers (hand operated);
(o) Wheelbarrows; or
(p) Wrenches;
(2) Accessories not essential to the operation of the farm machinery except if sold as a part of an assembled unit, including:
(a) Air conditioning units;
(b) Cabs;
(c) Canopies;
(d) Cigarette lighters;
(e) Deluxe seats;
(f) Lubricators;
(g) Radios;
(h) Seat cushions or covers; or
(i) Tool or utility boxes;
(3) Miscellaneous equipment, materials, or supplies, including:
(a) Antifreeze, oil, grease, lubricant, hydraulic fluid, or transmission fluid;
(b) Bedding materials including:
1. Chicken bedding;

2. Chicken litter;
3. Straw;
4. Sawdust; or
5. Wood shavings;
(c) Bird seed;
(d) Bromo gas applicators;
(e) Bumper hitch trailers;
(f) Calcium chloride;
(g) Castrators or elastrator bands or rings;
(h)Chains;
(i) Charcoal for cistern filtration;
(j) Chicken transport cages;
(k) Coke for curing tobacco;
(l) Copper sulphate;
(m) Dehorners;
(n) Dog food;
(o) Feed for work stock animals;
(p) Identification tags;
(q) Lawn or garden equipment, including:
1. Push mowers;
2. Riding lawn mowers;
3. Rotor tillers;
4. Weed eaters; or
5. Zero turn mowers;
(r) Livestock oil unless containing insecticide;
(s) Milk cans, milk strainers, or milk storage tanks;
(t) Rope;
(u) Snaps or washers;
(v) Tobacco canvas or other plant bed covers;
(w) Tobacco knives, tobacco spears, or tobacco sticks;
(x) Tobacco transplant system materials, including:
1. Plastic;
2. Trays; or
3. Ventilation curtains.
(y) Tractor paint;
(z) Truck batteries and truck tires; or
(aa) Work shoes or boots, work clothes, or safety goggles;
(4) Items sold or purchased for use in raising, feeding, showing, exhibiting, or breeding of horses except water as provided in KRS 139.470(14);
(5) Medicines, vaccines, vitamins, or wormers; or
(6) Veterinary instruments, including:
(a) Needles;
(b) Operating tables; or
(c) Syringes.

Section 11. Exemption Certificates. (1) A farmer shall issue a Form 51A158, Farm Exemption Certificate, or a Form 51A260, Streamlined Sales and Use Tax Agreement - Certificate of Exemption, which are incorporated by reference in 103 KAR 3:020, for the exempt purchase of tangible personal property other than tangible personal property exempted under KRS 139.480.

(2)(a) A farmer shall issue an On-farm Facilities Certificate of Exemption for Materials, Machinery and Equipment, Form 51A159, which is incorporated by reference in 103 KAR 3:020, for the exempt purchase of tangible personal property for incorporation into the construction, repair or renovation of on-farm facilities exempt under the provisions of KRS 139.480.

(b) A farmer shall issue a separate, individual certificate for new construction, repairs, or renovations. Unless the certificate has an expiration date when submitted jointly with a contractor, the certificate shall remain effective for each project type (new construction, repairs, or renovations) until the purchaser notifies the seller in writing that it is no longer valid.

(3)(a) A contractor may jointly execute an On-farm Facilities Certificate of Exemption for Materials, Machinery, and Equipment, Form 51A159, with a farmer for building materials, machinery, and equipment that are for incorporation into the construction, repair or renovation of an on-farm facility.

(b) A contractor shall not use the certificate for the purchase rental, or lease of construction equipment, consumable supplies or other tangible personal property that is not for incorporation into the on-farm facility.

(c) A jointly executed On-farm Facilities Certificate of Exemption for Materials, Machinery, and Equipment, Form 51A159, with a contractor shall be acceptable only for purchases made for periods within the effective dates indicated on the certificate at the time of purchase. (d) A contractor shall jointly execute a new certificate with a farmer for additional purchases of materials, machinery, or equipment required for the same project after the initial expiration date or for additional projects.

Section 12. Service Providers. (1) Persons engaged in spraying fertilizer, hauling agricultural lime, or providing other services to persons regularly engaged in farming shall not qualify for the farm machinery exemption.

(2) The service provider shall not execute an exemption certificate on behalf of the farmer for the purchase of fertilizer, agricultural lime or other tangible personal property used to perform the service.

Section 13. (1) This administrative regulation shall replace Revenue Policies 51P090, 51P100, 51P105, 51P120, 51P130, 51P135 and 51P360.

(2) Revenue Policies 51P090, 51P100, 51P105, 51P120, 51P130, 51P135 and 51P360 are hereby rescinded and shall be null, void, and unenforceable. (17 Ky.R. 1254; Am. 1973; eff. 11-21-1990, 35 Ky.R. 96; 580; 772; eff. 10-31-2008; TAm eff. 6-22-2016.)