



State of Alabama Department of Revenue

Montgomery, Alabama 36132

GEORGE E. MINGLEDORFF III

Assistant Commissioner

LEWIS A. EASTERLY

Secretary

GEORGE E. MINGLEDORFF III
Commissioner (Acting)

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FROM: Commissioner of Revenue
Alabama Department of Revenue

DATE: December 7, 1993

RE: Revenue Ruling 93-009

ISSUES AND FACTS

Organization A requests a ruling concerning the tax treatment for breeding and raising for slaughter certain birds referred to as ratites, which includes emus, ostriches and rheas. These three types of birds are within the same flightless bird category and are bred and raised for the same purposes. The ratite industry in Alabama consists of the agricultural process of breeding and raising ostriches, emus and rheas for slaughter to obtain meat and other by-products for market.

The request for a revenue ruling asks for a ruling on the taxation of the ratite industry under tax statutes administered by the Alabama Department of Revenue.

LAW AND ANALYSIS

In general, most reference materials define "ratite" as any of a group of flightless birds such as the ostrich or emu. See American Heritage Dictionary, Second College Edition. Code of Alabama 1975, §2-17-1(4) defines "poultry" to be any live or slaughtered domesticated bird. Since the statutory definition of poultry includes any bird, the Department of Revenue considers the group of flightless birds characterized as ratites, which include ostriches, emus and rheas, as also being entitled to the same favorable tax treatment given to "poultry" under the tax statutes.

For sales tax purposes, Code of Alabama 1975, §40-23-4(a) provides exemptions for poultry as follows:

- (4) Exempts feed for livestock and poultry,

(5) Exempts poultry and poultry products that are products of the farm and sold by the producer thereof,

(20) Exempts packing materials used in preparing poultry and eggs for market,

(21) Exempts drugs, hormones, medicines, and vitamins used in the commercial production of poultry,

(28) Exempts wood shavings used as 'chicken litter' by poultry producers.

Similar exemptions are found in the use tax statutes at §40-23-62 and are also applicable.

Code of Alabama 1975, §40-23-37 also provides a special reduced rate of one and one-half percent sales tax on machinery and equipment used in the production of poultry on farms.

For ad valorem tax purposes, §40-9-1(16) exempts all poultry from ad valorem taxation. The land and buildings used for raising and breeding of poultry are classified as Class III property and assessed at ten percent of market value under §40-8-1, Code of Alabama 1975. Industrial facilities used for the slaughter, processing, distributing and marketing of poultry are classified as Class II property and assessed at twenty percent of its market value under §40-8-1, Code of Alabama 1975. Farm tractors and farming implements, when used exclusively in connection with an agricultural operation, are exempt under §40-9-1(22), Code of Alabama 1975. The stock of goods and inventory for sale are also exempt under §40-9-1(23). The rate of tax for ad valorem purposes to be applied to any taxable property is the rate applicable in the taxing jurisdiction where the property is located.

HOLDING

Ostriches, emus and rheas, which are referred to as ratites, are included within the term poultry for taxation purposes and, as such, are entitled to the same treatment as received by the poultry industry in the State of Alabama.

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