

810-6-3-.01 Exemptions For Agricultural Products Sold By The Producer.

(1) There are two exemptions in the sales and use tax statutes relative to agricultural products sold by the producer. One is found in §§40-23-4(a)(5) and 40-23-62(8), Code of Ala. 1975, and the other in §40-23-4(a)(45) Code of Ala. 1975. A sale of agricultural products that does not qualify for one of these exemptions may still qualify for the other.

(2) §§40-23-4(a)(5) and 40-23-62(8), Code of Ala. 1975, exempt sales of products of the farm, dairy, grove, or garden from sales and use tax when the products (i) are sold by the producer, by members of the producer's immediate family, or by persons employed by the producer to assist in the production of the products and (ii) have not been processed, except to the extent that the products are customarily processed by operators of farms, dairies, groves or gardens in preparing products for market.

(a) This exemption does not apply to agricultural products sold by the producer through a store which the producer operates. (Curry v. Reeves, 195 So. 428 (Ala. 1940)).

(b) Unlike the exemption outlined in paragraph (3) below, this exemption is not limited to products that are planted, cultivated, and harvested by the producer. Examples of products that may qualify for this exemption but not the exemption in paragraph (3) include but are not limited to milk, eggs, catfish, minnows, bees, honey, rabbits, and hamsters produced on farms.

(3) §40-23-4(a)(45), Code of Ala. 1975, exempts fruit or other agricultural products from sales and use tax when sold by the person or corporation that planted or cultivated, and harvested the products on land owned or leased by them. Unlike the exemption outlined in paragraph (2) above, this exemption is not lost to the producer who sells qualifying agricultural products through a store operated by the producer.

(4) Sales of agricultural products which otherwise qualify for one or both exemptions outlined in paragraphs (2) and (3) above, do not lose their exempt status if the products, retain their raw, unprocessed form when prepared by the producer for marketing or merchandising. An agricultural product is no longer in its raw, unprocessed form if it is cooked, boiled, roasted, or mixed or compounded with ingredients other than additional exempt agricultural products.

(a) Examples of prepared agricultural products which do not lose their exempt status when they otherwise qualify for either or both exemptions outlined in paragraphs (2) and (3) are:

1. raw pecans when cracked or shelled
2. raw shelled peanuts

3. raw shelled peas, beans, or butterbeans
4. raw shucked corn
5. raw washed fruits or vegetables

(b) Examples of processed agricultural products which do not qualify for the exemptions outlined in paragraphs (2) and (3) above are:

1. apple cider
2. boiled or roasted peanuts
3. candy
4. cane or sorghum syrup
5. fruit pies
6. ice cream
7. jellies and jams
8. peanut butter
9. pickled peaches
10. pickles
11. roasted pecans

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Authority: §§40-2A-7(a)(5), 40-23-4(a)(5) 40-23-4(a)(45), 40-23-31, 40-23-83, Code of Ala. 1975.

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