

**TENNESSEE DEPARTMENT OF REVENUE  
LETTER RULING # 11-56**

**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 application of the Tennessee sales and use tax to sales of tangible personal property to poultry farmers.

**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**

[TAXPAYER NAME] (the "Taxpayer") is a [REDACTED]. The Taxpayer sells various items of tangible personal property to poultry farmers, including the items described below.

The Taxpayer sells the [BRAND NAME DOOR], an automated door system (the “[BRAND NAME DOOR]”). The [BRAND NAME DOOR] utilizes a patented double seal system that creates dead air space for thermal insulation and pressurization in conjunction with poultry building environmental control systems.

Poultry environmental control systems are designed to create the conditions necessary for the optimal raising of poultry, including temperature, air quality, and moisture levels. To achieve these conditions, modern poultry houses implement various systems such as tunnel ventilation and negative pressure ventilation. The environmental systems typically consist of fans, air inlets, air deflectors, evaporative cooling equipment, pipes and water reservoirs, and electronic controllers and thermostats. The [BRAND NAME DOOR] may be installed on the exterior or inside the poultry house, and is used to provide thermal insulation and pressurization as part of the environmental control system.

The Taxpayer also sells diffusers and inlets. Inlets are installed to walls or ceilings and permit the flow of air into and out of the structure to which they are attached. The diffuser functions as a negative pressure air inlet.

## **RULINGS**

1. When sold to a qualified farmer who presents the proper exemption certificate, is the sale of a [BRAND NAME DOOR] exempt for purposes of the Tennessee sales and use tax when the item is installed in a poultry building and used as part of the environmental control system for raising poultry?

Ruling: Yes. When sold to a qualified farmer who presents the proper exemption certificate, the sale of a [BRAND NAME DOOR] is exempt for purposes of the Tennessee sales and use tax when the item is installed in a poultry building and used as a component of an environmental control system for raising poultry.

2. When sold to a qualified farmer who presents the proper exemption certificate, is the sale of a diffuser or an inlet exempt for purposes of the Tennessee sales and use tax when the item is installed to a poultry building as part of the building’s air flow control system?

Ruling: Yes. When sold to a qualified farmer who presents the proper exemption certificate, the sale of a diffuser or an inlet is exempt for purposes of the Tennessee sales and use tax when the item is installed to a poultry building as part of the building’s air flow control system.

## **ANALYSIS**

Under the Retailers’ Sales Tax Act, TENN. CODE ANN. § 67-6-101 *et seq.*, the retail sale in Tennessee of tangible personal property and specifically enumerated services is subject to sales and use tax, unless specifically exempted from taxation.<sup>1</sup> As discussed in greater detail below,

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<sup>1</sup> TENN. CODE ANN. § 67-6-102(78) (2011) provides that the term “retail sale” means “any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.” TENN. CODE ANN. § 67-6-102(80)(A) defines the term “sale” in pertinent part to mean “any transfer of title or possession, or both, exchange, barter, lease or rental,

TENN. CODE ANN. § 67-6-207(a) (2011) exempts a number of items of tangible personal property from the sales and use tax when sold at retail to a “qualified farmer or nurseryman” in accordance with TENN. CODE ANN. § 67-6-207(e).<sup>2</sup> In particular, TENN. CODE ANN. § 67-6-207(a)(7) exempts the sale of “[s]ystems for poultry environment control, feeding and watering poultry and conveying eggs.”

TENN. CODE ANN. § 67-6-207(c) requires that qualified farmers or nurserymen provide their vendors with a copy of the exemption certificate issued by the Commissioner of Revenue or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the Commissioner, to evidence qualification for the exemptions under TENN. CODE ANN. § 67-6-207(a).

1. [BRAND NAME DOOR] and environmental control systems

When sold to a qualified farmer who presents the proper exemption certificate, the sale of a [BRAND NAME DOOR] is exempt for purposes of the Tennessee sales and use tax when the item is installed in a poultry building and used as a component of an environmental control system for raising poultry.

As noted above, TENN. CODE ANN. § 67-6-207(a)(7) exempts from the sales and use tax the sale of “[s]ystems for poultry environment control, feeding and watering poultry and conveying eggs.”

In this case, the [BRAND NAME DOOR] comprises part of a system for poultry environment control. Neither the Tennessee Code nor the Tennessee courts have defined the term “system” for purposes of the exemption under TENN. CODE ANN. § 67-6-207(a)(7). The Tennessee Supreme Court has stated that when a statute does not define a term, it is proper to look to common usage to determine the term’s meaning. *See, e.g., Tennessee Farmers Assur. v. Chumley*, 197 S.W.3d 767, 782-83 (Tenn. 2006); *Beare Co. v. Tennessee Dept. of Revenue*, 858 S.W.2d 906, 908 (Tenn. 1993). For example, MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 1269 (11<sup>th</sup> ed. 2007) defines “system” in pertinent part as “a group of devices or artificial objects forming a network, esp. for distributing something or serving a common purpose.”

The [BRAND NAME DOOR] is one of a group of devices used for the common purpose of controlling the poultry house environment. Specifically, the [BRAND NAME DOOR] provides

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conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration.” Additionally, TENN. CODE ANN. § 67-6-102(80)(C) defines the term “sale” to include “the furnishing of any of the things or services taxable” under the Retailers’ Sales Tax Act.

<sup>2</sup> TENN. CODE ANN. § 67-6-207(e) provides that a “qualified farmer or nurseryman” means a person who meets one or more of the following criteria: 1) the person is the owner or lessee of agricultural land from which \$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; 4) the person’s federal income tax return contains certain farming related income or activities or 5) the person otherwise establishes to the satisfaction of the Commissioner of Revenue that the person is actively engaged in the business of raising, harvesting or otherwise producing agricultural commodities.

thermal insulation and pressurization, which is a necessary component of many modern environmental control systems. For example, a negative pressure ventilation system is used during cold weather to provide fresh air, remove moisture, and minimize heat loss.<sup>3</sup> Negative pressure ventilation requires pressurization seals in various locations; the [BRAND NAME DOOR] provides pressurization for such systems. Similarly, the [BRAND NAME DOOR] provides pressurization and insulation in other types of environmental control systems.

Accordingly, the sale of a [BRAND NAME DOOR] is exempt under TENN. CODE ANN. § 67-6-207(a)(7) for purposes of the Tennessee sales and use tax when the item is installed in a poultry building and used as a component of an environmental control system for raising poultry. As noted above, TENN. CODE ANN. § 67-6-207(c) requires that the Taxpayer obtain from qualified farmers or nurserymen a copy of the exemption certificate issued by the Commissioner of Revenue or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the Commissioner.

## 2. Diffusers and Inlets

When sold to a qualified farmer who presents the proper exemption certificate, the sale of a diffuser or an inlet is exempt for purposes of the Tennessee sales and use tax when the item is installed to a poultry building as part of the building's air flow control system.

As noted above, TENN. CODE ANN. § 67-6-207(a)(7) exempts from the sales and use tax the sale of “[s]ystems for poultry environment control, feeding and watering poultry and conveying eggs.”

In this case, the diffuser or inlet comprises part of a system for poultry environment control. As discussed in the response to Question #1, a “system” is generally defined as “a group of devices or artificial objects forming a network, esp. for distributing something or serving a common purpose.” The diffuser or inlet is one of a group of devices used for the common purpose of controlling the poultry house environment. Inlets are installed to walls or ceilings and permit the flow of air into and out of the structure to which they are attached. The diffuser functions as a negative pressure air inlet.

Accordingly, the sale of a diffuser or inlet is exempt under TENN. CODE ANN. § 67-6-207(a)(7) for purposes of the Tennessee sales and use tax when the item is installed in a poultry building and used as a component of an environmental control system for raising poultry. As noted above, TENN. CODE ANN. § 67-6-207(c) requires that the Taxpayer obtain from qualified farmers or nurserymen a copy of the exemption certificate issued by the Commissioner of Revenue or a fully completed Streamlined Sales Tax certificate of exemption, which must include the exemption authorization number included on the certificate issued by the Commissioner.

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<sup>3</sup> See Brian D. Fairchild, *Basic Introduction to Broiler Housing Environmental Control*, University of Georgia College of Agriculture and Environmental Sciences Cooperative Extension Service (March 2005).

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Commissioner of Revenue

DATE: 10-6-2011