

PRIVATE TAXPAYER RULING LR96-009

November 13, 1996

The following private taxpayer ruling is provided in response to your letter dated September 15, 1996, in which you requested the department to rule regarding the taxable status of the sale of an irrigation booster pump.

The following is a restatement of the facts as presented in your letter.

Statement of Facts:

As an agricultural irrigation company you make sales of an irrigation booster pump that is used in a sprinkler irrigation system. The irrigation booster pump consists of an engine/pump combination that is mounted on a single axle or double axle trailer with a tow hitch so that the pump can be pulled by a tractor from field to field. It is designed and intended for use in agriculture.

Applicable Statutory Provisions:

Arizona Revised Statutes (A.R.S.) § 42-1310.01 imposes the transaction privilege tax on the business of selling tangible personal property at retail. All sales of tangible personal property are subject to tax unless specifically exempted by statute.

A.R.S. § 42-1310.01.B.13 provides an exemption from the tax on retail sales of new machinery and equipment used for the commercial production of agricultural, horticultural, viticultural, and floricultural crops in this state. The statute provides that this exemption is limited to tractors, tractor-drawn implements, and self-powered implements.

A.R.S. § 42-1408 imposes the use tax is imposed on purchases of tangible personal property from out-of-state retailers who do not have a business nexus with the state.

A.R.S. § 42-1409.B.13 provides an exemption from the use tax for purchases of new machinery and equipment used for the commercial production of agricultural, horticultural, viticultural, and floricultural crops in this state.

Discussion:

An exemption from the tax on retail sales and the use tax is provided for purchases of new machinery and equipment used for the commercial production of agricultural, horticultural,

viticultural, and floricultural crops in this state. The statute provides that this exemption is limited to tractors, tractor-drawn implements, and self-powered implements.

In order to qualify for the exemption the machinery and equipment must be "new" as defined by statute. "New machinery and equipment" is defined as machinery or equipment which has never been sold at retail except pursuant to leases or rentals which do not total two years or more.

Conclusion and Ruling:

On the basis of the information provided, we rule that the irrigation booster pump engine is exempt from transaction privilege and use tax if the engine fits the definition of "new" equipment as established in statute. This ruling is conditioned on the requirement that the irrigation booster pump when sold is new as defined in statute. In addition, the irrigation booster pump must be purchased for use in the commercial production of agricultural, horticultural, viticultural, and floricultural crops in this state.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department and is valid for a period of four years from date of issuance except as set out herein. This determination is subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.