

Iowa Sales Tax in Review #1

By Tom Junge, Iowa Field Director

Are Lawn Mowers Taxable?

The Department of Revenue and Finance issued an opinion regarding the question of taxability of mowers and uses of the same on the farm. They stated that: "Rule 701-18.44 states that to be eligible for exemption from tax, the machinery or equipment must be directly and primarily used in production of agricultural products. Agricultural production means a farming operation undertaken for profit by raising crops or livestock." In their opinion, a mower used to mow yards, ditches, fence rows and waterways would be taxable unless the grass is used to feed or bed livestock.

Sales Tax on Gators and ATVs

Here are comments from a sales tax auditor on this issue. These systems in question are taxable unless proven otherwise. If the application is agricultural (spraying, feeding livestock, etc.) they can be exempt. However, expect the auditor to audit the customer to verify this claim. The dealer is not held liable if following the "Good Faith Rule," and honestly believes the item in question is being used for agricultural purposes and the customer signs an exempt form. If the dealer knows the item in question is not used for agricultural purposes and does not charge sales tax, he becomes liable. Best advice is to charge the sales tax and let the customer file for a return.

We are in the process of selling a tractor and loader to a nursery. The tractor will also be used in some landscaping. Should I charge sales tax?

Possibly. Nurseries and commercial greenhouses are considered agriculture. What the revenue department will look at is if the tractor is directly and primarily used in the production of agriculture. If the tractor is primarily used in landscaping, it would not be exempt. This is a judgment call on its primary usage. To protect yourself, collect the tax and have the customer file for a sales tax refund (Form IA 843).

Since we receive numerous phone calls from dealers regarding Iowa sales tax on ag equipment, I thought it would be helpful to revisit a few areas of the law and/or Iowa Department of Revenue's interpretation over the next few months. This month, I'll start with Good Faith (Iowa Code 422.47 (3) b & d).

"The sales tax liability for all sales of tangible personal property and all services is upon the seller and purchaser unless the seller takes in **'good faith'** from the purchaser a valid exemption certificate stating under penalties of perjury that the purchase is for resale or for production of agricultural products (Iowa Code 422.45). If the tangible personal property or services are purchased tax-free pursuant to a valid exemption certificate which is taken in good faith by seller, and the tangible personal property or services are used or disposed of by the purchaser in a nonexempt manner, the purchaser is solely liable for the taxes and shall remit the taxes directly to the department."

"A valid exemption certificate is taken in "good faith" by the seller, when the seller has exercised that caution and diligence which honest persons of ordinary prudence would exercise in handling their own business affairs, and includes an honesty of intention and freedom from

knowledge of circumstances which ought to put one upon inquiry as to the facts. **In order for a seller to take a valid exemption certificate in good faith, the seller must exercise reasonable prudence to determine the facts supporting the valid exemption certificate, and if any facts upon such certificate would lead a reasonable person to further inquiry, then such inquiry must be made with an honest intent to discover the facts.”**

If a dealer knowingly accepts exemption certificate (status) for items not used directly and primarily in the production of agriculture, the dealer becomes liable along with the customer for the sales tax. When in doubt, collect tax and have the customer file for a refund. Following are four examples of how to apply Iowa sales tax on ag equipment.

Example 1 – Lawn Mowers

A farmer does not want to pay sales tax on a lawn mower that he says is used for production of agriculture. He claims it is used to mow waterways, around farm buildings and fence rows. The dealer accepts an exemption certificate and does not charge sales tax. The dealer and customer are both liable. The dealer becomes liable because he/she accepted the exemption certificate on a taxable item. The Revenue Department will collect unpaid taxes, interest and penalty from the dealer. The dealer may try to collect unpaid taxes from the customer. (Lawn mowers are taxable. The only exception is customers who are sod farmers.)

Example 2 – ATV’s & Gators

A farmer purchases an ATV or “Gator” from a dealer and claims it will be used in the production of agriculture. To accept an exemption certificate from the farmer, the dealer will need to exercise reasonable prudence to determine whether the facts support the valid exemption certificate. If the farmer states the actual purpose of use to the dealer and the dealer honestly believes it will be used in agriculture production, the dealer can accept an exemption certificate and reduce their liability. **(It is advised that dealers collect the tax and have the farmer file for refund or write in detail the exempt purpose of use on the retail order and have customer sign it.)**

Example 3 – Multi-Use Items*

A customer purchases a skid loader for livestock production and the dealer in “good faith” takes a valid exemption certificate knowing that skid loaders are used in the production of agriculture. The customer, however, does not use the skid loader in livestock operation and instead uses it for a landscaping business. The customer remains solely liable. However, if the dealer knows that the skid loader will not be used for the production of agriculture (following the good faith rule) the dealer cannot accept the exemption certificate. If the dealer does accept the exemption certificate, he/she will become liable along with customer.

**Skid loaders, rotary cutters, rear-mounted blades, etc. fall into this multi-use category. On all multi-use items, it is advised to document use on retail order.*