

130.2110 Sellers of Seeds and Fertilizer

a) **Sellers of Seeds – When Liable For Tax**

When persons who are engaged in the business of selling seeds sell seeds to purchasers who use the seeds in raising lawn grass, vegetables, crops or other plants which they will use or consume and not resell, such vendors are engaged in the business of selling tangible personal property to purchasers for use or consumption and are required to remit Retailers' Occupation Tax to the Department on their gross receipts from such sales.

b) **Sellers of Seeds – When Not Liable For Tax**

Persons who sell seeds to purchasers who employ such seeds in raising vegetables, crops or other plants for sale are selling seeds to purchasers for purposes of resale and are not required to remit Retailers' Occupation Tax measured by their gross receipts from such sales.

c) **Definition of Fertilizer**

The word "fertilizer", as used in this Section, means a commodity which contains one or more substances to increase the available plant food content of the soil and which becomes a part of the products grown therein.

d) **Sellers of Fertilizer – When Liable For Tax**

When persons who are engaged in the business of selling fertilizer sell fertilizer to purchasers who use such fertilizer on lawns, home or private gardens, parks, boulevards and the like, such vendors are engaged in the business of selling tangible personal property to purchasers for use or consumption and are required to remit Retailers' Occupation Tax to the Department on their gross receipts from such sales.

e) **Sellers of Fertilizer – When Not Liable For Tax**

Persons who sell fertilizer to purchasers who are regularly engaged in the business of producing agricultural products for sale are considered to be making sales for purposes of resale because, in such cases, the fertilizer becomes a part of products which are subsequently sold. Such sellers of fertilizer, therefore, are not required to remit Retailers' Occupation Tax measured by their gross receipts from such sales.

(Source: Amended and effective May 21, 1962)

130.2100 Sellers of Feeds and Breeding Livestock

a) **Illustrations**

The term "feed" includes salt, grains, tankage, oyster shells, mineral supplements, vitamins, limestone and other generally recognized animal feeds.

b) Sellers of Feeds – When Liable For Tax

The sale of feeds to a purchaser for use in feeding horses, livestock or poultry that are used, employed or consumed, and the products (if any) of which are used, employed or consumed, for purposes other than sale at market, constitutes a "sale at retail" within the meaning of the Retailers' Occupation Tax Act. In such case, gross receipts of the seller from this source must be included in computing tax liability.

c) Sellers of Feeds – When Not Liable For Tax

Persons selling feeds to purchasers for feeding livestock or poultry for marketing, or for producing dairy products or eggs for marketing, are not making sales for use or consumption. Such sales of feeds are deemed to be sales, for purposes of resale, of the property which, "as an ingredient or constituent goes into and forms a part of tangible personal property subsequently the subject of a 'sale at retail'".

d) Sellers of Breeding Livestock – When Not Liable For Tax

Farmers or producers of breeding livestock are not liable for Retailers' Occupation Tax with respect to gross receipts realized from the sale of bulls, stallions or other servicing animals for breeding purposes. In addition, sellers of semen used for artificial insemination of livestock for direct agricultural production are not liable for Retailers' Occupation Tax with respect to gross receipts realized from such sales.

(Source: Amended at 24 Ill. Reg. 15104, effective October 2, 2000)