

Sales and Use Tax Exemption for Water Used for Commercial Production of Poultry
Mark-Up Version of Proposed Rule

GR-44 EXEMPTIONS FROM TAX – WATER USED FOR COMMERCIAL PRODUCTION
OF POULTRY

I. Definitions

As used in this Rule:

A. “Commercial Poultry Water Sales Tax Exemption Certificate” or “exemption certificate” means the certificate provided by the purchaser of water for exclusive use in the operation of a Poultry farm attesting to the purchaser’s entitlement to the exemption;

B. “Poultry” means chickens, turkeys, ducks, geese, and any other domesticated birds that are edible by humans; and

C. “Poultry farm” means a facility used for the commercial production of poultry, including a broiler or turkey grow-out house, laying house, hatching unit, nursery unit, and breeding house.

II. Exemption from Tax

A. The sale of water for exclusive use in the operation of a Poultry farm is exempt from the gross receipts tax levied by the Arkansas Gross Receipts Tax Act of 1941, Ark. Code Ann. § 26-52-101 *et seq.* and the compensating use tax levied by the Arkansas Compensating Tax Act of 1949, Ark. Code Ann. § 26-53-101 *et seq.* when the conditions of this Rule are met.

B. The water must be separately metered by the water utility or provider for the exclusive use of the Poultry farm to qualify for the exemption in II.A.

III. Water Provider Requirements

A. At or before the installation of the separate meter to comply with II.B, the water utility or provider must obtain a Commercial Poultry Water Sales Tax Exemption Certificate from the purchaser certifying that the poultry farm is eligible for the exemption.

B.1. The water utility or provider must retain the exemption certificates provided at the time of the separate metering that certifies each meter is for exclusive use in the commercial production of poultry.

2. A direct pay permit holder must retain a copy of the exemption certificate required by III.A to claim the exemption for water that is used exclusively in the commercial production of poultry.

Source: Ark. Code Ann. § 26-52-453.

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Commercial Poultry Water Sales Tax Exemption Certification

I, _____ am engaged in the production of
(purchaser's name - please print)

Poultry as a commercial farming business. The water I am purchasing through the separate meter No. _____ will be used exclusively in the commercial production of poultry on a poultry farm. I am aware that this claim for exemption will be reviewed by the Department of Finance and Administration. I am also aware that any false representation made by me in an attempt to purchase water free from Arkansas sales tax will result in the assessment of tax, penalty, and interest against me and is punishable as a misdemeanor under Arkansas law.

Signature of Purchaser	Date	Telephone Number
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Address	City	State	Zip
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1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

HOUSE BILL 1196

4
5 By: Representatives Christiansen, Beck

For An Act To Be Entitled

8 AN ACT TO PROVIDE A SALES AND USE TAX EXEMPTION FOR
9 CERTAIN UTILITIES USED BY A POULTRY FARM; TO REQUIRE
10 THE ADOPTION OF RULES RELATED TO THE CREATION OF A
11 SALES AND USE TAX EXEMPTION FOR CERTAIN UTILITIES
12 USED BY A POULTRY FARM; AND FOR OTHER PURPOSES.

Subtitle

16 TO PROVIDE A SALES AND USE TAX EXEMPTION
17 FOR WATER USED BY A POULTRY FARM; AND TO
18 REQUIRE THE ADOPTION OF RELATED RULES.

19
20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22
23 SECTION 1. Arkansas Code Title 26, Chapter 52, Subchapter 4, is
24 amended to add an additional section to read as follows:

25 26-52-453. Water used in poultry farming.

26 (a) As used in this section, "poultry farm" means a facility used for
27 the commercial production of poultry, including without limitation a broiler
28 or turkey grow-out house, laying house, hatching unit, nursery unit, and
29 breeding house.

30 (b)(1) The gross receipts or gross proceeds derived from the sale of
31 water that is used exclusively in the operation of a poultry farm are exempt
32 from the gross receipts tax levied by this chapter and the compensating use
33 tax levied by the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

34 (2) Water sold for any purpose other than the purpose stated in
35 subdivision (b)(1) of this section is subject to the full gross receipts tax
36 levied by this chapter and the full compensating use tax levied by the



1 Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq.

2 (c)(1) Water subject to the exemption provided under this section
 3 shall be separately metered from water used for any other purpose by the
 4 taxpayer.

5 (2) However, the rules promulgated under subsection (e) of this
 6 section may establish additional or alternate requirements for the metering
 7 of water under this section.

8 (d) Before allowing the exemption for water under this section, the
 9 Secretary of the Department of Finance and Administration may require a water
 10 utility to obtain a certificate from the taxpayer in the form prescribed by
 11 the secretary, certifying that the taxpayer is eligible for the exemption.

12 (e) The secretary shall promulgate rules for the proper administration
 13 of this section.

14
 15 SECTION 2. DO NOT CODIFY. Rules.

16 (a) When adopting the initial rules required under this act, the
 17 Secretary of the Department of Finance and Administration shall file the
 18 final rules with the Secretary of State for adoption under § 25-15-204(f):

19 (1) On or before October 1, 2021; or

20 (2) If approval under § 10-3-309 has not occurred by October 1,
 21 2021, as soon as practicable after approval under § 10-3-309.

22 (b) The secretary shall file the proposed rules with the Legislative
 23 Council under § 10-3-309(c) sufficiently in advance of October 1, 2021, so
 24 that the Legislative Council may consider the rules for approval before
 25 October 1, 2021.

26
 27 SECTION 3. EFFECTIVE DATE. Section 1 of this act is effective on the
 28 first day of the calendar quarter following the effective date of this act.

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 31 **APPROVED: 4/27/21**