

SUMMARY OF PROPOSAL #20
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Sales Tax Exemption for Sales of Raw Products, including Christmas Trees, from Farms, Orchards and Gardens, and Farmers' Markets.

Summary of Proposal for Consideration

To repeal the sales tax exemption on the sale of raw products, including Christmas trees, from farms, orchards, or gardens where the sale is made directly by the producer to the consumer, including sales by the producer to the consumer at farmers' markets under Arkansas Code § 26-52-401(18)(A)(iii) and (B)(ii), effective for tax years beginning on or after January 1, 2019.

Fiscal Analysis

Repeal of the exemption may result in an estimated \$336,290 per year increase to General Revenue based upon FY17, as provided by the Department of Finance and Administration's "Sales and Use Tax Revenue Impact of Exemptions" presentation to the Arkansas Tax Reform and Relief Legislative Task Force on March 19, 2018.

Legal Analysis

Background

Arkansas currently has a sales tax exemption on the sale of raw products, including Christmas trees, from the farm, orchard, or garden where the sale is made directly by the producer to the consumer, including sales by the producer to the consumer at farmers' markets.

ACT 386 of 1941 created the sales tax exemption on the sale of raw products from a farm, orchard or garden directly by the producer to the consumer.

ACT 458 of 1991 expanded the sales tax exemption to include Christmas trees.

ACT 1205 of 2009 expanded the sales tax exemption to include sales at farmer's markets, and has not been amended since.

Potential Legal Issues

None.

Other States

- Iowa: General food sales tax exemption on items that are not retailer prepared food, candy, or soft drinks, does not include non-food items and does not include Christmas trees. (IA St. § 423.3)
- Louisiana: Sales tax exemption on the sale of livestock, poultry, and other farm products direct from the farm, provided that such sales are made directly by the producers, includes farmers' markets. (LA St. § 47:305)

- Mississippi: Sales tax exemption for food products that are grown, made or processed in Mississippi and sold from farmers' markets that have been certified by the Mississippi Department of Agriculture and Commerce; sales tax exemption on the sale of farm products (other than ornamental plants) by the producer, except when sold by the producer through an established place of business; sales tax exemption on sales of Christmas trees if purchased directly from the farm. (MS St. § 27-65-103)
- Missouri: Sales tax exemption for any person or entity participating in a farmers' market with estimated sales of less than twenty-five thousand dollars (\$25,000) from collecting state and local sales and use taxes, does not include Christmas trees. (MO St. § 144.527)
- Oklahoma: Sales tax exemption on the sale of agricultural products produced in the state by the producer sold directly to the consumer at or from a farm, orchard, garden or farmers market, sales tax exemption does not include florists and nurserymen. (OK St. 68 § 1358)
- Tennessee: Sales tax exemption on the sale of livestock, nursery stock, poultry and other farm or nursery products, in any calendar year, directly from a farmer or nurseryman, including at a farmer's market if fifty percent (50%) or more of such products are grown or produced in the calendar year by the farmer or nurseryman. If less than fifty percent (50%) of the products in any calendar year are grown or produced by the farmer or nurseryman, then only the gross proceeds of the sale of the products actually grown or produced by the farmer or nurseryman is exempt from sales tax; sales tax exemption includes trees. (TN St. § 67-6-301)
- Texas: General sales tax exemption on food products such as flour, sugar, bread, milk, eggs, fruits, vegetables, baked goods, condiments, similar products. No sales tax exemption on the sale of Christmas trees. (TX St. § 151.314)