Reference: Tax Inquiry
Letter Ruling Number: 16-0097

This is in response to your letter dated March 07, 2016, requesting that the Mississippi Department of Revenue provide a ruling regarding an updated response to LR 09-177. Your request has been assigned the letter ruling number listed above. Please use this number in any further correspondence with the DOR concerning this request.

As we understand, the Mississippi Department of Revenue (formerly Mississippi State Tax Commission) provided a written response to Mississippi Poultry Association, Inc. dated May 21, 2009. This response was regarding the taxability of poultry equipment, as it is related to the changes covered under the Senate Bill 2666 as passed by the 2009 Legislature amending the Miss. Code Ann. Section 27-65-17. Mississippi Poultry Association, Inc. is requesting an updated letter since LR 09-177 is near the seven (7) year end.

Miss. Code Ann. Section 27-65-17 provides retail sales of farm tractors and parts and labor used to maintain and/or repair such tractors shall be taxed at the rate of one and one-half percent (1-1/2%) when made to farmers for agricultural purposes. Retail sales of farm implements sold to farmers and used directly in the production of poultry, ratte, domesticated fish as defined in Section 69-7-501, livestock, livestock products, agricultural crops or ornamental plant crops or used for other agricultural purposes, and parts and labor used to maintain and/or repair such implements, shall be taxed at the rate of one and one-half percent (1-1/2%) when used on the farm.

Farm Tractor is limited to self-propelled equipment which performs no farm function within itself other than to move, draw or furnish power to other implements which may be attached. The term farm tractor does not include self-powered units which perform specialized functions such as combines, cotton pickers, hay balers, sprayers, dusters and stationary power units.

Farm Implement means a complete unit that performs a specialized mechanical function and which is identifiable as a specific piece of equipment that is ordinary and customarily used on a farm.

Below is a brief description of each system followed by the taxability of each system, as stated in your letter dated April 28, 2009:

1. Feed System: This system supplies feed to the birds and includes feed bins, boots on the bottom of feed bins, feed lines and pans, chick mates, feed lids, feed hoppers, cut-off switches, motors and augers, scales, and gravel for access road used by feed delivery trucks.

The items you have listed as components of a feed system will be subject to the 1-1/2% reduced rate of tax with the exception of gravel for access roads. Gravel for the access road will be taxed at either 7% or the 3-1/2% contractor's tax (when greater than $10,000) and whether or not the gravel is being provided through an otherwise qualifiable construction project.
contract.

2. Water Supply System: This system supplies potable water to the birds and includes pumps, wells, chlorinators, filters, medicators, regulator sight tubes, nipples, cups, and water lines.

The items you have listed as components of a water supply system will be subject to the 1-1/2% reduced rate of tax; however, the construction of the well is not considered a farm implement and is taxable at either 7% or the 3-1/2% contractor’s tax (when greater than $10,000).

3. Electrical and Emergency Power Back Up Systems: These systems are used to supply electrical power during a power loss and include wiring, computers, control boxes, sensors, timers, breakers, breaker boxes, alarm systems, generators, throw-out or transfer switches, back up controls and sensors, circuit boards, hardware and parts for electrical hookups.

The items you have listed as part of the electrical and emergency power back up systems will be heated differently. The generator itself will be considered an implement and will be subject to the 1-1/2% reduced rate of tax, as well as the computers, control boxes, sensors, alarm system boxes/keypads and timers.

As for the remaining items, the issue is trying to separate the electrical that is a part of the house structure from the electrical that is a part of the backup power systems. In general, any items used to wire the generator to the main circuit box will be considered part of the generator and taxed at the 1-1/2% reduced rate. Any items used to connect the back up systems from the main circuit box to the structure are considered a part of the realty and taxed at either 7%, or 3-1/2% contractor’s tax (when greater than $10,000).

Wiring for the alarm system inside the structure is also considered part of the realty and taxed at either 7% or 3-1/2% contractor’s tax (when greater than $10,000).

The items you have listed above that fall into these categories include wiring, breakers, breaker boxes, throw-out or transfer switches, circuit boards, hardware and parts for electrical hookups.

4. Ventilation System: This system is used to control air quality and temperature and includes fans, cool cells, vent doors, vent boxes, curtains, curtain drops, heating systems including brooders, space heaters, tube heaters, and controllers. Parts for these items include hoses, hose regulators, orifices, and igniters.

The items you have listed as components of the ventilation system will be subject to the 1-1/2% reduced rate of tax.

5. Litter Clean Out and Disposal System: This system is used to prevent disease and comply with environmental laws and includes tractors, implements, incinerators, composters, road materials, spreaders or spreader trucks, and litter, such as wood chips and rice hulls.

Tractors, implements, incinerators, and de caking machines will qualify for the 1-1/2% reduced rate of tax. I cannot determine the correct tax due on the compost from the picture you submitted. It appears that this is a structure and as such would be taxed at the 3-1/2% contractor’s tax when the total contract price to build or repair exceeds $10,000. Otherwise the component materials will be taxable at the regular retail rate of 7%. The litter will also be taxable at 7%. The spreader trucks will be taxable as any other truck depending upon the GVW of the truck. Road materials will be taxed at either 7% or the 3-1/2% contractor’s tax (when greater than $10,000) and whether or not the materials are being provided through an otherwise qualifiable construction contract.

6. Egg Pick Up Systems: This system is used in the collection and preservation of eggs and includes, nests, belts, conveyors, motors, egg packing systems and cooler units.

The items you have listed as components of the egg pick up systems will be subject to the 1-1/2% reduced rate of tax.
and farm implements are required to complete and notarized a Farmer's Affidavit. The Farmer's Affidavit form is available online at www.dor.ms.gov.

The farmer should supply copies of their completed and notarized Farmer's Affidavit to each vendor where qualified items are purchased at the 1-1/2% reduced rate of sales tax. The Farmer's Affidavit expires December 31 of each year; therefore, a new Farmer's Affidavit should be completed each following year and provided to each vendor.

Copies of this letter ruling may be provided to your association's membership for use as guidance; however, the individual members may not rely on this letter ruling as it only applies to the Mississippi Poultry Association, Inc. Individual members may request their own letter ruling if they so choose.

I trust that this is the information you were requesting. Should you have any additional questions, feel free to contact this office at (601) 923-7015.

This letter ruling is based on the specific facts and circumstances that you communicated to the DOR. This ruling is not binding on the DOR if these facts and circumstances are inaccurate, contain a material omission of a relevant fact or facts to the issue(s) presented or if such facts and circumstances change. This letter ruling is also only valid for seven (7) years from the date of this letter. At the end of this seven (7) year period, you are free to update your information and request another letter ruling if you wish. This ruling is only applicable to you or to your client if you are requesting this ruling on behalf of another and can only be relied upon by the person for whom the ruling was requested.

If the facts and circumstances presented in your request are accurate, complete and do not change for the seven (7) year period indicated above, the person for whom it was requested can rely upon this ruling unless and until there is a change in the law or regulation or the issuance of judicial decision that indicates the ruling is no longer correct or the DOR retracts the ruling. The DOR does reserve the right to retract this ruling if it later determines on its own review that the ruling is incorrect. Such retraction will be in writing and the effect of the retraction will be prospective from the date of the retraction letter.

Sincerely,

Nicolette Floyd
(601) 923-7029
Mississippi Department of Revenue