

Samuel M. Williams, Secretary
David N. Harper, Director

Sam Brownback, Governor

MEMORANDUM

Supersedes June 5, 2001 Memorandum

TO: Kansas County Appraisers

FROM: Roger Hamm, Deputy Director, Division of Property Valuation

DATE: April 21, 2017

SUBJECT: Exemption of Farm Machinery and Equipment (K.S.A. 79-201j)

Farm machinery and equipment is exempt under K.S.A. 79-201j(a). The farm machinery and equipment exemption is one that the county appraiser has some discretion to administer. K.S.A. 79-213(1). Farm machinery and equipment may be exempted by the county appraiser if it clearly qualifies for exemption. If the county appraiser is in doubt as to whether the property qualifies for exemption, the county appraiser must construe in favor of taxation. The county appraiser should then assist the owner in applying for exemption in the usual manner through the Board of Tax Appeals (BOTA). *See* Directive #92-025. It is suggested a photograph of the property at issue be provided to the BOTA with an explanation of all relevant facts.

K.S.A. 2016 Supp. 79-201j(a) provides that all farm machinery and equipment shall be exempt from ad valorem property taxes. The statute defines the term “farm machinery and equipment” to mean:

“personal property actually and regularly used in any farming or ranching operation.”

The statute specifically states that the term “farming or ranching operation” includes:

- (1) the operation of a feedlot;
- (2) the performing of farm or ranch work for hire; and
- (3) the planting, cultivating and harvesting of nursery or greenhouse products, or both, for sale or resale.

- The Kansas Court of Appeals in *In re Appeal of Goddard*, 39 Kan.App.2d 325, 180 P.3d 604 (2008), concluded that “the ‘farming operation’ ends with the harvesting of trees” and a sawmill is a processing or manufacturing establishment, not a farming operation.
- The Kansas Supreme Court in *In re Application of Lietz Constr. Co.*, 273 Kan. 890, 906, 47 P.3d 1275 (2002) found “that soil conservation measures are generally understood to be an integral part of the cultivation of the soil in current farming practices.”

The statute provides that the term “farm machinery and equipment” includes:

- (1) Machinery and equipment comprising a natural gas distribution system which is owned and operated by a nonprofit public utility described by K.S.A. 66-104c, and amendments thereto, and which is operated predominantly for the purpose of providing fuel for the irrigation of land devoted to agricultural use;
- (2) Any bed, body or box that is attached to a motor vehicle and is actually and regularly used in any farming or ranching operation, except for a bed, body or box that is attached to the motor vehicle by the motor vehicle manufacturer; and
- (3) Any greenhouse which is not permanently affixed to real estate and which is used for a farming or ranching operation.

K.S.A. 79-201j(a) specifically states that “[t]he term ‘farm machinery and equipment’ shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as the terms are defined by K.S.A. 8-126, and amendments thereto.” (Emphasis added)

"Passenger vehicle" means every motor vehicle, as defined in this section, which is designed primarily to carry 10 or fewer passengers, and which is not used as a truck. K.S.A. 2016 Supp. 8-126(dd)

"Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than 10 passengers. K.S.A. 2016 Supp. 8-126(nn)

"Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn. K.S.A. 2016 Supp. 8-126(oo)

"Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle. K.S.A. 2016 Supp. 8-126(ll)

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle. K.S.A. 2016 Supp. 8-126(jj)

"Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load. K.S.A. 2016 Supp. 8-126(ff)

Farm Trailers

A farm trailer *may* qualify for exemption. "Farm trailer" means every trailer as defined in K.S.A. 2016 Supp. 8-126 (ll) and semitrailer as defined in K.S.A. 2016 Supp. 8-126(jj) that is "designed and used primarily as a farm vehicle." K.S.A. 2016 Supp. 8-126(l).

To qualify for exemption, a farm trailer must be *actually and regularly used* in a farming or ranching operation. It also must be: (1) designed and (2) used primarily as a farm vehicle.

For example, a stock trailer is designed for farm use. Thus, the county appraiser need only determine whether the stock trailer is actually, regularly and primarily used for a farming or ranching operation. On the other hand, a semi-trailer may or may not be designed for farm use. Most semi-trailers are designed for substantial over-the-road use and can carry a variety of items for commercial purposes. If a county appraiser is in doubt as to whether a trailer or semi-trailer is designed primarily for farm use, then it is appropriate to allow BOTA to review and decide the matter. More information about trailers is available in the *PVD Memorandum* dated April 16, 2007 regarding farm machinery and equipment.

Recent Developments

The term "implement of husbandry" is used in the Kansas registration statutes, not in the property tax exemption statute K.S.A. 79-201j. See K.S.A. 2016 Supp. 8-126(p). Some implements of husbandry, such as farm tractors and self-propelled farm implements, may be exempt as farm machinery and equipment pursuant to K.S.A. 79-201j(a) because they satisfy the definition of "farm machinery and equipment" and are not a passenger vehicle, truck, or truck tractor.

Recently, the Kansas Court of Appeals in *In the Matter of the Appeal of Reeve Cattle Co., Inc.*, ___ P.3d ___, No. 116,005 (2017), concluded that the mixer-feeder trucks at issue were not "trucks" as defined in K.S.A. 2015 Supp. 8-126(nn) because they did not transport freight and merchandise or more than 10 passengers. The board of tax appeals had also found the mixer-feeder trucks were not passenger vehicles, and the Court found the county abandoned that issue. The mixer-feeder trucks are used to mix raw ingredients of cattle feed and deliver it within the feedlots and were rarely driven off the feedlot. They are equipped with augers that blend the feed and a hydraulic system to operate the augers.

The Court in *Reeve Cattle* held in relevant part:

"The key testimony was that the mixer-feeder trucks are used to mix raw ingredients of cattle feed and deliver it to cattle *within* the feedlots. The mixer-feeder trucks are rarely driven off the feedlot and clearly do not carry more than 10 passengers. Thus, considering the evidence in light of the record as a whole, we conclude that BOTA did not err in finding that the subject property does not meet the definition of 'truck' contained in K.S.A. 2015 Supp. 8-126(nn).

... When construing a statute, common words are given their ordinary meanings. *Ullery*, 304 Kan. at 409. Webster's II New College Dictionary 701-02 (3d ed. 2005) defines 'merchandise' as 'goods or commodities that may be bought or sold.' Cattle feed is not merchandise, at least not when it is in a mixer-feeder truck as it is not a good or commodity to be bought or sold; it is food being prepared for and delivered to cattle. Similarly, cattle feed is not freight because freight is defined as 'goods transported as cargo by a commercial carrier.' Webster's II New College Dictionary 455 (3d ed. 2005). Again, the cattle feed in the mixer-feeder trucks is not freight as it is not cargo and a mixer-feeder truck is not a commercial carrier.”

There was no dispute that the *Reeve Cattle* mixer-feeder trucks were actually and regularly used in a farming or ranching operation, and therefore, because they did not meet the definition of “trucks,” they were held to be exempt as farm machinery and equipment. Attached to the end of this memorandum are photographs of the exempt mixer-feeder trucks in *Reeve Cattle*.

In keeping with the findings of the *Reeve Cattle* opinion, a mixer-feeder box mounted on a cab chassis truck is exempt in its entirety if actually and regularly used in a farming or ranching operation. The photographs below illustrate mixer-feeder trucks where both the cab chassis truck and mixer-feeder box are exempt as farm machinery and equipment if the use test is met.





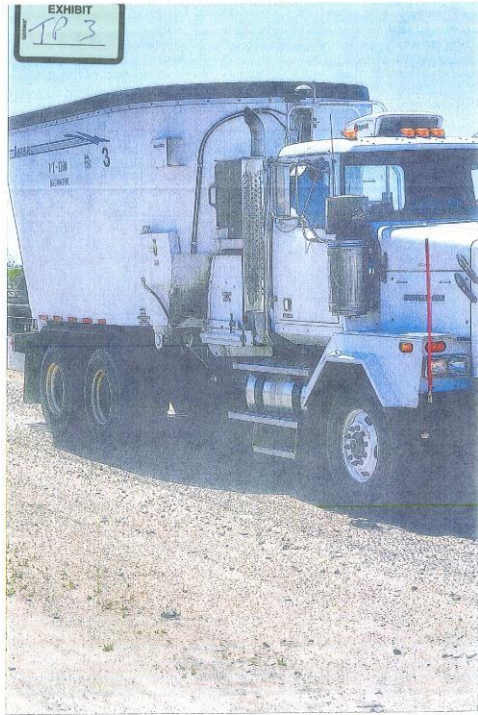
Other Farm Equipment

Farm equipment that attaches, but is not permanently attached to a truck, may qualify for exemption. For example, a tank and sprayer boom used for spraying fertilizer and chemicals.

While a passenger vehicle, truck, or truck tractor does not qualify for exemption, “[a]ny bed, body or box that is attached to a motor vehicle and is actually and regularly used in any farming or ranching operation, except for a bed, body or box that is attached to the motor vehicle by the motor vehicle manufacturer” may qualify for exemption. K.S.A. 79-201j(a).

Aquaculture and Christmas Tree Machinery and Equipment

In addition to farm machinery and equipment, K.S.A. 79-201j(b) provides an ad valorem property tax exemption for all “aquaculture machinery and equipment” and “Christmas tree machinery and equipment.” See K.S.A. 79-201j(b)(1) and (2) for definitions.



In re Reeve Cattle Co., BOTA Docket No. 2015-7099-PR, Court of Appeals No. 116,005 (2017).

