

September 9, 2008

**RETAIL SALES OF GAME BIRDS**

**Issue:**

Are retail sales of game birds subject to sales tax?

**Conclusion:**

Beginning October 1, 2008, Nebraska Revised Statute § 77-2704.46 has been amended to provide that retail sales of game birds subject to permit and regulation by the Nebraska Game and Parks Commission are not subject to sales tax. The exemption of game birds is based on their designation as a form of animal life which ordinarily constitutes food for human consumption.

**Definition:**

Game birds – Birds included in sections 37-201 to 37-811 of the Nebraska Revised Statutes, also cited as the Game Law. Specifically, Nebraska Revised Statute § 37-229 defines game birds as coots, cranes, curlew, doves, grouse, partridges, pheasants, plovers, prairie chickens, quail, rails, snipes, swans, woodcocks, wild turkeys, and all migratory waterfowl.

Migratory waterfowl subject to permit and regulation by the Nebraska Game and Parks Commission includes ducks, geese, or brant.

**Analysis:**

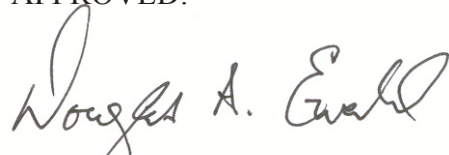
Persons who barter, buy, or sell game birds subject to permit and regulation by the Nebraska Game and Parks Commission are not required to collect or remit Nebraska sales and use tax on such transactions. Game birds may be sold, for purposes of the exemption, alive, dressed and readied for preparation, or ready-to-eat.

Any purchases of feed, agricultural chemicals, veterinary medicines, feed supplements and water for consumption by, use on, or use in caring for game birds are also exempt from sales and use tax.

Game preserves for hunting are not considered to be selling game birds, even when fees increase for the number of birds bagged. The amount charged to hunt is an admission to use a place or location where amusement, entertainment, or recreation is provided and is subject to tax.

LB 916, section 20, has amended Nebraska Revised Statute § 77-2704.46 regarding food for human consumption.

APPROVED:



Douglas A. Ewald  
Tax Commissioner

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