

**67-6-907. Retail florist. [Effective July 1, 2005].**

(a) For purposes of this section, a "retail florist" is a seller who is primarily engaged in the retail sale of cut flowers and floral arrangements that are primarily either sold over-the-counter or delivered locally by the same florist. For this purpose, the term "primarily" means more than fifty percent (50%) of the seller's total gross sales or receipts are derived from that activity. In determining if a business is primarily a florist, the total sales price of cut flowers and floral arrangements includes all charges made by the florist to the purchaser of such as separately stated delivery or service charges. All service, relay and any other charges for orders, including charges for long distance telephone calls and telegraph service that are separately stated and represent cost to the retail florist, without any mark-up, shall be considered to be part of the total selling price subject to the sales tax.

(b) Notwithstanding any other law to the contrary, the sale of cut flowers, floral arrangements, potted plants and any associated tangible personal property by a retail florist shall be sourced as follows:

(1) If the transaction takes place prior to January 1, 2006;

(A) The sale shall be sourced to the location of the florist that took the order from the purchaser even if such florist forwards the order to another retail florist in a different taxing jurisdiction to prepare and deliver to the recipient identified by the purchaser;

(B) The retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in such retail florist's taxing jurisdiction and remit such tax to the appropriate taxing authority; and

(C) If a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, such receiving florist will not be held liable for tax with respect to any receipts that such florist may realize from the transaction.

(2) If the transaction takes place on or after January 1, 2006, and the retail florist taking the order forwards it to another retail florist in a different taxing jurisdiction to prepare and deliver to the recipient identified by the purchaser, the sale is sourced to the location in the taxing jurisdiction where delivery to the recipient, the purchaser's donee, occurs; and

(A) The retail florist that took the order shall collect from the purchaser the applicable state sales tax and the local sales tax applicable in the taxing jurisdiction where delivery to the recipient, the purchaser's donee, occurs and remit such tax to the appropriate taxing authority; and

(B) If a Tennessee retail florist receives instructions from another retail florist for the delivery of flowers, such receiving florist will not be held liable for sales or use tax with respect to any receipts that such florist may realize from the transaction.

[Acts 2004, ch. 959, § 35.]