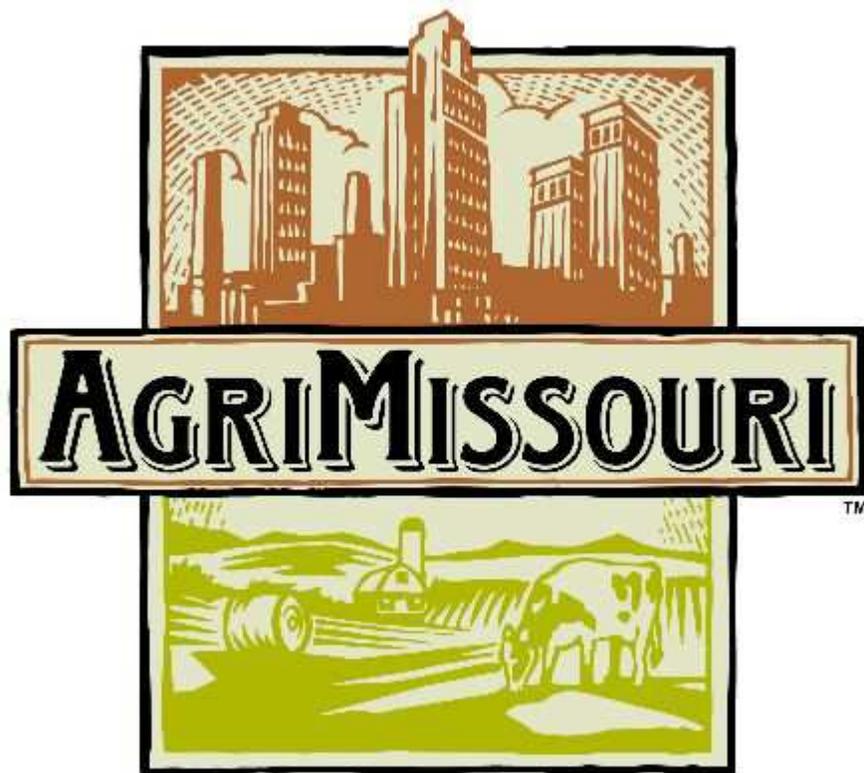


# AgriMissouri Farmers' Market Handbook



**A guide to creating and managing farmers' markets and the laws and regulations that govern them**

This is an excerpt from the AgriMissouri Farmers' Market Handbook 2/4/2015 about operating your business at a farmer's market. Please pay special attention to the tax exemption information listed under #2, Sales and Use Tax and Farmers' Markets section. There is a wealth of information in the handbook. For the full version, please visit this site:  
<http://agrimissouri.com/pdf/fmhandbook.pdf>



Thank you for supporting the DeSoto Farmer's Market.

## Section II Operating Business at a Farmers' Market

The key to understanding farmers' markets is recognizing that they come in many forms. A farmers' market can be a common marketplace that includes farmers selling their farm products directly to consumers. The vendors themselves can also be a farmers' market and can come in the form of a single vendor, a farm stand, Community Supported Agriculture (CSA), and even agritourism operations. The thing they all have in common is that they are a gathering of individuals, businesses and organizations, coming together to sell agriculture products to consumers through a common venue and have a direct sale component. The vendors have responsibilities regarding the business they conduct. The common marketplace has responsibilities regarding the gathering and making sure that everything is in place to make it successful.

To successfully organize a common marketplace, the participants must understand everyone's needs and role. Participants must also respect and maintain the separation of roles between the vendors and the common marketplace. This handbook is broken into two sections to help make this clear, and to show how the rules of the marketplace and laws applying to the vendor work together, and must maintain a clear separation to work properly. **Section I** will help users successfully create and manage a common marketplace. **Section II** is designed to help vendors operate a business as a farmers' market and at a common marketplace.

### Doing Business in Missouri

There are many different types of vendors and regulations that apply at a farmers' market. Vendors must understand the legal terminology and regulatory processes that apply to their business to protect themselves, their markets and consumers.

#### 1. Business Licensing and Taxes

The Secretary of State states that anyone doing business in the state of Missouri is required to register with the Secretary of State's office. There are many different forms a business can take and all have advantages and disadvantages. At farmers' markets, the most common business forms for vendors are Limited Liability Corporations and Fictitious Names (also known as DBA's). The Secretary of State has compiled a guide of the [Most Commonly Asked Questions](#) to guide vendors through the decision making process.

All the resources to properly form and manage a business in Missouri can be found via the [Missouri Business Portal](#).

#### 2. Sales and Use Tax and Farmers' Markets

##### Farmers Market Tax Exemption

On August 28, 2014, RSMo. 144.527.1 was enacted, exempting any person or entity participating in a farmers' market with estimated sales of less than twenty-five thousand dollars or more from participating in farmers' markets from collecting state and local sales and use taxes defined, levied, or calculated under section [32.085](#), sections [144.010 to 144.525](#), sections [144.600 to 144.761](#), and section [238.235](#) on all sales of farm products sold at a farmers' market.

A person, or entity, with no tax liability would not be required to obtain a Tax ID number. However, there are many reasons a vendor may want to obtain a Tax ID number besides filing taxes, including but not limited to:

- Some banks require tax ID numbers for a new business to set up accounts,
- A would be requires to sell through venues other than a farmers' market,
- A Tax ID Number is required to purchase wholesale inputs (e.g. seed, fertilizers and ingredients) tax free,
- Some farmers' markets may require a Tax ID number to participate, and
- Some local governments may require a Tax ID to verify the exemption or to obtain other vending licenses.

Missouri Revised Statutes Chapter 144

Farmers' Market, Sales and Use Tax Exemption for Farm Products Sold / Section 144.527.1  
August 28, 2014

"144.527. 1. In addition to the exemptions granted under this chapter, there shall also be specifically exempted from state and local sales and use taxes defined, levied, or calculated under section 32.085, sections 144.010 to 144.525, sections 144.600 to 144.761, and section 238.235 all sales of farm products sold at a farmers' market.

2. For purposes of this section "farm products" shall mean any fresh fruits, vegetables, mushrooms, nuts, shell eggs, honey or other bee products, maple syrup or maple sugar, flowers, nursery stock and other horticultural commodities, livestock food products, including meat, milk, cheese, and other dairy products, food products of "aquaculture", as defined in section 277.024, including fish, oysters, clams, mussels, and other molluscan shellfish taken from the waters of the state, products from any tree, vine, or plant and other flowers, or any of the products listed in this subsection that have been processed by the participating farmer, including, but not limited to, baked goods made with farm products.

3. For purposes of this section "farmers' market" shall mean an individual farmer or a cooperative or nonprofit enterprise or association that consistently occupies a given site throughout the season, which operates principally as a common marketplace for an individual farmer or a group of farmers to sell farm products directly to consumers, and where the products sold are produced by the participating farmers with the sole intent and purpose of generating a portion of household income.

4. The provisions of this section do not apply to any person or entity with estimated total annual sales of twenty-five thousand dollars or more from participating in farmers' markets."

### **Getting a Tax ID Number**

An individual farmer, a cooperative or a non-profit enterprise may register online using the [Online Business Registration](#) website. Those registering to collect and remit state and local sales tax must post a bond equal to three times their anticipated monthly liability. To help determine the amount of the bond, the Department of Revenue has compiled [state and local sales tax rate tables](#). If the estimated liability is less than \$500, the bond amount is \$25. Even if the liability is estimated at \$0, the bond amount would still be \$25 to cover processing fees and the expense of subsequent filings. A tax [registration form](#) (Form 2643) must be submitted for each location that will transact sales and mailed to:

Business Tax Registration  
P.O. Box 357  
Jefferson City, Mo. 65105-0357

Use tax is similar to sales tax, but is imposed when tangible personal property comes into the state and is stored, used or consumed in Missouri. Communities have the option of adopting a local use tax equal to the local sales tax for that community.

### **Local Exemptions for Farmers**

Under Missouri law, farmers selling their farm grown products at temporary locations, such as farmers' markets, are not considered merchants and therefore are exempt from additional municipal or county licenses, fees and taxes for selling their products, as long as the operation does not maintain a permanent retail location off the farm.

Missouri Revised Statutes Chapter 150

Merchants', Manufacturers', Itinerant Vendors' and Peddlers' / Section 150.030

August 28, 2009

150.030. "Any farmer residing in this state who shall grow or process any article of farm produce or farm products on his farm is hereby authorized and permitted to vend, retail or wholesale said products, free from license, fee or taxation from any county or municipality, in any quantity he may choose, and by doing so shall not be considered a merchant; provided, he does not have a regular stand or place of business away from his farm; and provided further, that any such produce or products shall not be exempted from such health or police regulations as any community may require."

(RSMo 1939 § 11330, A.L. 1945 p. 1838 § 11329)

Prior revisions: 1929 § 10102; 1919 § 13093; 1909 § 11645

(1976) Held that growing and sale of horticultural and floracultural products as well as bedding plants qualifies as farming and sale of such products by grower is exempt from municipal merchants tax. *Kansas City v. Rosehill Gardens, Inc. (Mo.)*, 542 S.W.2d 776.

### **What is a Farm?**

The USDA defines a farm as "any operation that has the potential to produce at least one thousand dollars of agricultural goods or that would have sold that amount of produce under normal circumstances." There are no registration requirements for farms. Status as a farm is often verified through annual income tax filings or with a farm number obtained from any local [USDA Farm Service Agency \(FSA\)](#) office.