

FARMERS, TIMBER HARVESTERS & NURSERY OPERATORS

Notice #07-12

Sales and Use Tax

November 2007



Highlights

- *Effective 1/1/2008 purchasers must have an Agricultural Sales and Use Tax Certificate of Exemption to make purchases exempt from tax*
- *Qualifications for exemption certificate*
- *Applying for and using exemption certificate*
- *Farmers affidavits are not valid for purchases made after 12/31/2007*

INTRODUCTION

This notice is intended to provide information concerning recent changes in Tennessee sales and use tax laws related to the expansion of the agricultural tax exemptions. This notice will also provide information regarding the new requirements for obtaining the certificate of exemption needed in order to make tax-exempt purchases.

Effective January 1, 2008, farmers, timber harvesters and nursery operators must qualify for and receive an Agricultural Sales and Use Tax Certificate of Exemption from the Department of Revenue to make agricultural purchases exempt from tax.

Effective January 1, 2008, agricultural exemptions available to qualified farmers, timber harvesters and nursery operators have been expanded.

DISCUSSION

Farmers, timber harvesters and nursery operators applying to the Department of Revenue for the new exemption certificate must meet one or more of the following criteria.

- Is the owner or lessee of agricultural land from which \$1,000 or more of agricultural products were produced or sold during the year, including payments from government sources;
- Is in the business of providing for-hire custom agricultural services of plowing, planting, harvesting, growing, raising, or processing agricultural products or the maintenance of agricultural land;
- Is the owner of land that qualifies for taxation under the provisions of the Agricultural Forest and Open Space Land Act of 1976;
- The applicant's federal income tax return contains one or more of the following:
 - Business activity on IRS schedule F (Profit or Loss From Farming); or
 - Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or Schedule E (Supplemental Income and Loss); or
- The applicant establishes to the satisfaction of the commissioner that he or she is actively engaged in the business of raising, harvesting or otherwise producing agricultural commodities.

The application for the new exemption certificate is available on the department's Web site, www.Tennessee.gov/revenue. Qualified applicants will be issued the Agricultural Sales and Use Tax Certificate of Exemption which includes a new exemption number. To make using the exemption certificate easier, a wallet-sized card containing the same information will also be issued.

The exemption certificate or card must be presented to sellers to make tax-exempt agricultural purchases. The exemption certificate must be renewed every four years. The farmer and nursery operator affidavit previously used for making tax-exempt purchases is not valid after December 31, 2007.

For more tax information, call toll free 1-800-342-1003
Nashville area and out-of-state call (615) 253-0600
Email TN.Revenue@state.tn.us

➤ *Items qualifying for exemption T.C.A. §67-6-207*

➤ *Machinery, equipment and appliances*

➤ *Replacement parts and repair labor*

➤ *Energy fuels*

Items Qualifying for Exemption

Purchases of the following items are exempt from sales and use tax **ONLY** when sold and billed to persons that have received the Agricultural Sales and Use Tax Certificate of Exemption and present the exemption certificate or card that contains the new exemption number to the seller.

- Machinery, equipment or appliances used directly and principally for producing agricultural and nursery products for sale and consumption off the premises. This does not include automobiles, trucks, household appliances, or property which becomes real property when erected or installed. **Note that the machinery, equipment, or appliance no longer has to cost more than \$250 to be exempt farm machinery or equipment.**
- Hay wagons, silage wagons, trailers used directly and principally in producing agricultural and nursery products for sale and consumption off the premises. Trucks, flat-bed trailers, and semi-trailers that are used to transport farm products over the road to market, to transport machinery over the road between farms, or to pick up and carry supplies over the road to the farm do not qualify as farm machinery equipment and cannot be purchased without the payment of tax.
- Sales of all-terrain vehicles (ATVs) for use directly and principally in the production of agricultural or nursery products for sale and consumption off the premises. **Qualified purchasers are no longer required to pay tax on the purchase of ATVs and upon approval by the department obtain a refund of the tax from the seller.** Sales of ATVs when purchased by a person presenting the new exemption certificate or card are exempt from tax.
- Equipment used exclusively for harvesting timber.
- Trailers used to transport livestock.
- Self-propelled fertilizer or chemical application equipment used to spread fertilizer or chemicals to aid in production of food or fiber for human or animal consumption.
- Tender beds & spreader beds, even if mounted on a truck.
- Grain bins and attachments.
- Aircraft designed and used for crop dusting.
- Systems for poultry environment control, feeding and watering poultry and conveying eggs.
- Replacement parts or repair labor for repair of machinery, equipment and appliances qualifying for this exemption.
- Gasoline and diesel fuel used for agricultural purposes as defined in Tenn. Code Ann. Section 67-6-102. **Note that the purchase of dyed diesel fuel used in vehicles, not operated on public highways, and logging**

equipment that is used in cutting and harvesting trees is no longer subject to sales tax when purchased by a person presenting the new exemption certificate or card.

- Electricity, natural gas, and liquefied gas, including propane and butane used directly in producing food or fiber for human or animal consumption or aid in growing horticultural product for sale. **Note that the 1.5% state sales tax is repealed. These purchases are completely exempt when purchased by a person presenting the new exemption certificate or card.**
- Coal, wood, wood products or wood by-products or fuel oil, which is used as energy fuel in the production of food or fiber for human or animal consumption or in production of nursery or greenhouse crops. **Note that the 1.5% state sales tax is repealed. These purchases are completely exempt when purchased by a person presenting the new exemption certificate or card.**
- Seeds, seedlings, plants grown from seed and liners (cuttings) to produce food or fiber, including tobacco, for human or animal consumption.
- Fertilizer to be used to aid in the growth and development of seeds, seedlings, or plants.
- Pesticides which are sold for the purpose of aiding in the production of food or fiber, including tobacco, for human or animal consumption.
- Containers for farm products and plastic or canvas used in the care and raising of plants, seeds or seedlings, and plastic or canvas used in covering feed bins, silos and other similar storage structures.
- Livestock and poultry feeds, drugs used for livestock and instruments used for the administration of such drugs.
- Any natural or artificial substance used in the reproduction of livestock.
- Adjuvants and surfactants solutions sold exclusively for the purpose of mixture with insecticides, pesticides, fungicides, or herbicides or for use as a soil conditioner when used to aid in the growth and development of food or fiber, including tobacco, for human or animal consumption.
- Agri-sawdust.

➤ *Supplies*

➤ *"Agricultural purposes" defined for exempt gasoline & diesel fuel T.C.A. § 67-6-102*

"Agricultural purposes" means operating tractors or other farm equipment used exclusively, whether for hire or not, in plowing, planting, harvesting, raising or processing of farm products at a farm, nursery or greenhouse; or operating farm irrigation systems; or operating motor vehicles or other logging equipment used exclusively, whether for hire or not, in cutting and harvesting trees; when such vehicles or equipment are not operated upon the public highways of this state.

➤ *Purchasers are responsible if purchases are not used in tax exempt manner*

Tax Responsibility

Qualified farmers, timber harvesters and nursery operators are liable for the sales tax, penalty and interest on purchases made free of tax if:

- 1) The machinery and equipment, including any repair or replacement parts, are not used directly and principally in producing agricultural or horticultural products for sale and consumption off the premises, or exclusively used in harvesting timber, or
- 2) The supplies are not used to produce food or fiber for human or animal consumption, or
- 3) He or she allows other persons to use his or her exemption certificate or number to make tax-exempt purchases.

➤ *Sellers are responsible if they do not maintain a copy of the exemption documentation*

Sellers are liable for the sales tax, penalty and interest on sales made free of tax if:

- 1) The seller does not maintain a copy of the exemption certificate or card, which must include the new exemption number, in their records, or
- 2) The invoice or bill does not contain the name and address of the qualified farmer, timber harvester or nursery operator presenting the exemption certificate or number, or
- 3) The invoice or bill does not contain a description of the products purchased by the farmer, timber harvester or nursery operator.

➤ *Sales of agricultural products grown or produced by farmers T.C.A. § 67-6-301*

Sales of Agricultural Products

Agricultural products, including livestock and horticultural products, that are produced or grown by the farmer or nursery operator continue to be exempt from sales and use tax when sold by the farmer or nursery operator. A person does not have to qualify for the exemption certificate to make tax-exempt sales of agricultural products grown or produced by that person. Farmers and nursery operators are not required to obtain exemption certificates from purchasers of agricultural products that are grown or produced by the farmer or nursery operator.

➤ *Streamlined Sales Tax Certificate of Exemption form is on the department's Web site*

Streamlined Sales Tax Exemption Form

Sellers may obtain, in place of a copy of the new exemption certificate or card, a fully completed Streamlined Sales Tax Certificate of Exemption form which must include the exemption number appearing on the Agricultural Sales and Use Tax Certificate of Exemption issued by the department. Streamlined Sales Tax Certificates of Exemption forms are available on the department's Web site.

 **References:**

- PC 602 (2007)
- T.C.A. § 67-6-102
- T.C.A. § 67-6-207
- T.C.A. § 67-6-301

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.