

RETAILER'S NOTICE SALES TO FARMERS, TIMBER HARVESTERS & NURSERY OPERATORS

Notice #07-13

Sales and Use Tax

November 2007



INTRODUCTION

This notice is intended to provide retailers with 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 agricultural exemption certificates that must be presented to sellers in order to make tax-exempt purchases.

Effective January 1, 2008, only persons who have been issued an Agricultural Sales and Use Tax Certificate of Exemption by the Department of Revenue are permitted to make agricultural purchases exempt from tax.

DISCUSSION

Farmers, timber harvesters and nursery operators must apply to the Department of Revenue for the new exemption certificate. The exemption certificate will contain the name and address of the qualifying person and an exemption number. To make using the exemption certificate easier, the department will issue a wallet-sized card containing the same information.

When a seller makes a tax-exempt sale to a farmer, timber harvester or nursery operator who has presented the seller with the exemption certificate or card, the seller must:

- 1) Include the name and address of the purchaser on the invoice;
- 2) Include a list or description of the products purchased on the invoice;
- 3) Obtain a copy of the new exemption certificate or card; and
- 4) Maintain a copy of the invoice and exemption certificate or card in his or her books and records.

When an employee or family member makes a purchase on behalf of the exempt farmer, timber harvester or nursery operator, the seller must include the name of the employee or family member making the purchase on the invoice. In addition, the purchase must be billed or invoiced in the name of the exempt farmer, timber harvester or nursery operator.

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 Certificate of Exemption forms are available on the department's Web site.

Once a certificate of exemption is obtained, sellers are not required to obtain an additional copy of the exemption certificate for subsequent tax-exempt sales. The farmers and nursery operators affidavit previously used by sellers for making tax-exempt agricultural sales is not valid after December 31, 2007.

➤ *Effective 1/1/2008 purchasers must have an Agricultural Sales and Use Tax Certificate of Exemption to make purchases exempt from tax*

➤ *Procedure for making tax-exempt sales*

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

➤ *Farmers affidavits are not valid for purchases made after 12/31/2007*

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

➤ *Machinery, equipment & appliances*

Items Qualifying for Exemption

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 to the seller the exemption certificate or card that contains the new exemption number.

- 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. **Sellers are no longer required to collect tax on the sale of ATVs and refund the tax to the purchaser upon approval by the department.** Sales of ATVs to persons 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 sale of dyed diesel fuel used in logging equipment that is used in cutting and harvesting**

➤ *Replacement parts & repair labor*

➤ *Energy fuels*

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 in 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 a tax exempt manner*

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

➤ *Application for the new exemption certificate is on the department's Web site*

Tax Responsibility

Sellers may make tax-exempt sales of the items listed when the purchaser presents to the seller the exemption certificate or card that contains the new exemption number.

- 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
 - 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 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 new exemption certificate or card which must include the exemption number issued by the department 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.

Applications for Exemption Certificates

The application for the new exemption certificate is available on the department's Web site, www.Tennessee.gov/revenue. Sellers are encouraged to download and have application forms and this notice available for purchasers who have not received or made an application for the Tennessee Agricultural Sales and Use Tax Exemption Certificate.



References:

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

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.