

I N F O R M A T I O N

Agricultural Machinery and Equipment

Revised December, 2009

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This information guide provides an overview of how Nebraska sales and use tax law applies to agricultural machinery and equipment. It is not designed to answer all questions which might arise, but is intended to enable a person to become familiar with the main applications of the sales and use tax program to this industry.

Overview

Purchases and certain leases of depreciable agricultural machinery and equipment are exempt from Nebraska and local option sales and use tax when purchased or leased for use in commercial agriculture.

Personal property tax is due on such items even if sales tax was erroneously paid. Should this occur, a claim for a refund of the sales tax may be filed with the Department.

Definitions

Agricultural machinery and equipment is tangible personal property that is used **directly** in cultivating or harvesting a crop, the raising or caring for animal life, or collecting or processing of an agricultural product on the farm or ranch.

Example of direct use: Equipment used to mow hay that the producer will feed or sell.

Example of indirect use: Equipment used to mow under fence lines.

Agricultural machinery and equipment **DOES NOT** include: office equipment, registered or unregistered motor vehicles and trailers, well-drilling equipment, handling or processing equipment for agricultural products not on a farm or ranch, any building or fixture, or machinery and equipment purchased by veterinarians for use in their practices.

Commercial agriculture is the business of producing food products or other useful and valuable crops, or raising animal life. The crops or animal life can either be sold or used by the producer or grower to produce other products for sale.

- Commercial agriculture includes commercial production in greenhouses, nurseries, tree farms, sod farms, and feedlots.
- Commercial agriculture does not include storage of products off the farm, in commercial elevators, or animal life in stockyards or sale barns.

Depreciable tangible personal property shall mean:


- Tangible personal property which is used in a trade or business or used for the production of income, and which has a determinable life of longer than one year;
- Tangible personal property which is eligible for federal depreciation but which the owner chooses not to depreciate; or
- All other tangible personal property for which a taxpayer is claiming depreciation, amortization, or section 179 deductions on their federal income tax return.

Sales of Agricultural Machinery and Equipment

Sales of depreciable agricultural machinery and equipment are exempt from Nebraska and local option sales and use tax when purchased for use in commercial agriculture.

ALL exempt sales of this equipment **MUST** be supported by a Nebraska Resale and Exempt Sale Certificate, Form 13. The seller must give one copy of Form 13 to the purchaser, keep one copy with their books and records.

The Nebraska Sales and Use Tax Exemption Certificate for Agricultural Machinery and Equipment Purchases or Leases, Form 13AG, has been replaced by the Nebraska Resale and Exempt Sale Certificate, Form 13.

	Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption <small>•Read instructions on reverse side/see note below</small>	FORM 13		
<p>I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:</p> <p>Check One <input type="checkbox"/> Purchase for Resale (Complete Section A) <input type="checkbox"/> Contractor (Complete Section C) <input checked="" type="checkbox"/> Exempt Purchase (Complete Section B)</p>				
SECTION B—Nebraska Exempt Sale Certificate				
<p>The basis for this exemption is exemption category 02 (Insert appropriate category as described on reverse of this form.).</p> <p>If exemption category 2 is claimed, enter the following information:</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Description of Item(s) Purchased Farm machinery</td> <td style="width: 50%;">Intended Use of Item(s) Purchased Agricultural</td> </tr> </table>			Description of Item(s) Purchased Farm machinery	Intended Use of Item(s) Purchased Agricultural
Description of Item(s) Purchased Farm machinery	Intended Use of Item(s) Purchased Agricultural			
sign here Andy Somebody <small>Authorized Signature</small>	Owner <small>Title</small>	5/23/01 <small>Date</small>		

Leases of Agricultural Machinery and Equipment

Leases of qualified machinery and equipment are exempt from Nebraska and local option sales and use tax when leased for use in commercial agriculture.

✓ **Capitalized leases** of qualified machinery and equipment for periods of **more than one year** must be supported by a Form 13. The capitalized lease allows the lessee to depreciate the machinery or equipment for federal income tax purposes. In most cases the depreciation allowance makes the lessor responsible for the personal property tax assessment.

Lessors must give one copy of Form 13 to the purchaser, keep one copy with their books and records.

✓ **Operating leases** of qualified machinery and equipment for periods of **one year or less** must be supported by Form 13, Section B. In most cases the lessor is responsible for reporting the net book value for personal property assessment.

Lessors must keep the completed Form 13 with their books and records.

Repair and Replacement Parts for Agricultural Machinery and Equipment

The sale of repair and replacement parts for agricultural machinery and equipment used in commercial agriculture are not exempt from sales and use tax. The seller is required to collect and remit the tax on sales of repair and replacement parts. The seller cannot accept a Form 13 to exempt such sales from tax.

The purchaser may apply for a refund of the tax paid on depreciable repair and replacement parts for agricultural machinery and equipment that is directly used in commercial agriculture. The claim for refund must be filed within three years after the date of purchase.

As a general rule, repair and replacement parts are depreciable if they will appreciably prolong the life of the property, arrest its deterioration, or increase its value or usefulness and are ordinarily capital expenditures for which a deduction is allowed only through the depreciation/cost recovery allowance. However, incidental repairs that merely keep the property in an ordinary operating or usable condition are deductible current expenses, and the tax paid for these items is not refundable.

Personal Property Tax

Personal property tax is due on qualified agricultural machinery and equipment EVEN IF sales tax is paid on the item. All depreciable agricultural machinery and equipment must be reported for personal property tax. If sales tax was paid on property qualifying for the sales tax exemption, the purchaser may apply for a refund of the sales and use tax by filing a Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1.

Improper Issuance of Form 13

If a Form 13 was improperly issued by a purchaser who is not engaged in commercial agriculture, the purchaser must remit Nebraska and applicable city use tax directly to the Department by filing a Nebraska and Local Consumer's Use Tax Return, Form 2, or a Nebraska and Local Individual Consumer's Use Tax Return, Form 3. Any purchaser who gives a Form 13 to a retailer for any purchase that is not exempt from sales and use tax may be assessed a penalty of \$100 or ten times the tax.

Improvements to Real Estate

Improvements to real estate do not qualify for this exemption because such improvements are not considered to be machinery and equipment. Examples include buildings and fences.

The following list provides examples of machinery and equipment that can qualify for the sales and use tax exemption when:

- 1 It is depreciable;
- 2 It is agricultural machinery or equipment; and
- 3 It is used in commercial agriculture.

- ATV's and snowmobiles;
- Augers, portable;
- Combines;
- Concrete feed bunks that are movable;
- Crop dusting airplanes;
- Cultivators;
- Disks;
- Farrowing crates, pens, stations;
- Feed boxes;
- Feed wagons, not licensable;
- Feeders, automatic;
- Fertilizer nurse tanks pulled behind a tractor or connected to center pivot;
- Fertilizer spreaders or applicators;
- Fish production equipment including feeding and seining equipment;
- Gates, completed;
- Gestation crates;

- Grain bin equipment that dries or moves the grain;
- Grain dryers, portable;
- Harrows;
- Hay balers;
- Hay loaders;
- Hay mowers;
- Hay rakes;
- Hog carts;
- Hog slats/gang slats, concrete;
- Hydraulic pole tampers and couplers;
- Irrigation well equipment such as motors, pivots, and pipes, but not casing and concrete pads;
- Manure handling equipment;
- Milk separators;
- Milk storage equipment on the farm location;
- Milking equipment;
- Panels, completed;
- Planters;
- Plows;
- Stock racks;
- Tractors;
- Tractor duals;
- Trash wheels; and
- Truck chassis/cabs modified to be feed wagons.

Equipment That Is Part of a Building

When qualified agricultural machinery and equipment are annexed to a building, the person installing such equipment is a contractor.

Only contractors operating under Option 1 can take a Form 13 from their customers to exempt the qualified equipment from sales tax.

Contractors operating under Option 2 or Option 3 are the consumers of all materials, including qualified equipment, that they annex to a building. They cannot accept Form 13 for equipment that they annex to a building.

Information relating to the various contractor options is available in the Nebraska Taxation of Contractors General Information Guide.