



NEW JERSEY
DEPARTMENT OF AGRICULTURE

SALES OF TANGIBLE PERSONAL PROPERTY AND SERVICES USED ON FARMS

**Plain Language guide to Division of Taxation Sales & Use Tax
(NJAC 18:24-19.1 -19.8)**

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SALES OF TANGIBLE PERSONAL PROPERTY AND SERVICES USED ON FARMS

In order to be exempt under N.J.S.A. 54:32B-8.16 a farmer's purchase of qualified tangible personal property (items) or services must be used directly and primarily at the purchaser's farming operation in the production and handling of agricultural or horticultural commodities for sale.

Items/services (including conservation services) qualify for the farm use exemption when used directly and primarily in the growing and handling of agricultural products for sale and maintaining farm animals until they reach a marketable state.

- Items used in: planting, propagating, growing, feeding, stimulating growth, or raising plant and animal agricultural/horticultural commodities for sale.

Examples of exempt items include but are not limited to:

- Tilling equipment used on a vegetable farm;
- Seeds used in a forage crop farm;
- Fertilizer used in a sod farm;
- Feed scoops used in a poultry farm; and
- Incubator used by a poultry farm.

Repair and replacement parts for exempt farm equipment are also exempt from tax, but repair services are taxable.

- Services performed by outside service contractor.

Examples of exempt services include but are not limited to:

- Plowing;
- Picking/Packing;
- Spraying;
- Shearing; and
- Grooming/Shoeing.

- Items used to extract/separate an agricultural/horticultural product from livestock, soil, water, or plants used directly in production.

Examples of exempt items include but are not limited to:

- Milking equipment;
 - Egg collecting equipment;
 - Cherry picking devices;
 - Combines;
 - Sheep shearing tools; and
 - Gear for aquaculture operation.
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- Items/services used directly in handling products.
Examples of exempt items/services include but are not limited to:
 - Equipment used to wash and pack fruit at a fruit orchard;
 - Ropes and harnesses used in moving livestock;
 - Debeakers used on a poultry farm; and
 - Service of washing eggs on a poultry farm.
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- Items to preventing spoilage or deterioration.
Examples of exempt items include but are not limited to:
 - Refrigerators to cool and preserve milk on a dairy farm;
 - Disinfectants to sterilize milking equipment and cans on a dairy farm;
 - Cooling equipment to preserve harvested perishable fruits on an orchard;
 - Watering equipment to maintain the freshness of balled and burlap trees on a tree farm until shipment to market; and
 - Pesticide application service to preserve horticultural products being prepared for sale.

Items/services used in producing secondary products, made from agricultural or horticultural commodities, are not deemed to be used

“directly” in the production of an agricultural or horticultural commodity and **ARE NOT** eligible for the farm use exemption.

Example: Equipment/items used to make butter, sausage, jellies, flour, cider, cheese, ice cream, woolen fabric, floral wreaths, herbal sachets, bees wax candles, finished lumber, furniture, and other items which are made from farm products, but which are not in themselves agricultural or horticultural commodities, **ARE NOT** eligible for exemption under the farm use exemption.

Items/services used directly and primarily in producing an agricultural or horticultural commodity for sale **are exempt** from tax, even though the farmer may also operate another enterprise, which is not a farming enterprise, in which the farmer produces and sells secondary products made from the farmer's farm products.

Example: A business that raises flowers and herbs in order to produce wreaths, sachets, teas, and jellies for sale is eligible for the farm use exemption on seeds, fertilizers, and farming equipment used in planting, raising, and harvesting the herbs and flowers.

The fact that a particular item may be essential to the farmer's business because its use is required by law or practical necessity, does not mean it is used directly in agriculture production. Those items are **NOT ELIGIBLE FOR EXEMPTION.**

Examples of TAXABLE services/items include but are not limited to:

- Smoke alarms;
- Books, computer disc/data;
- Information services;
- Employee training materials;
- Personal property;
- Clerical, financial, personnel management services;
- Printed advertising materials and promotional materials;

- Equipment and supplies used in transporting products to market or customers, or in displaying products for sale, or in operating a store;
- Computers and software;
- Items used to prevent or fight fires, first aid supplies, safety and accident prevention equipment;
- Property used for the personal comfort or convenience of the farmer, farm employees, service personnel, suppliers, or customers (for example, planking for crosswalks, beds and fans for migrant labor camp, and telephones);
- Repairing farming equipment;
- Janitorial services;
- Landscaping, snow removal, and grounds cleanup and maintenance services;
- Grooming dogs, horses, and other animals kept for the farmer's personal use or enjoyment;
- Repairing a greenhouse;
- Imprinting the farmer's stationery with the farmer's business logo;
- Mail processing services for printed advertising material sent to potential New Jersey customers;
- Painting and maintaining a silo;
- Cleaning and repairing a grain bin;
- Repairing a farm truck;
- Security services, including guard dog services and installation of alarm systems; and
- Boarding of horses, not used in the business of breeding and raising horses for sale.

When an item/service is put to use in more than one way, it is **NO LONGER EXEMPT**, unless it is used more than 50% of the time directly in the production, handling and preservation for sale of agricultural or horticultural commodities.

Examples:

- A farmer is in the business of raising vegetable plants for sale to garden centers and other retail sellers of plants. The farmer buys tilling equipment which is used to prepare the soil for planting. The equipment is used directly in the production of the horticultural commodities raised for sale. The farmer also occasionally uses the tiller to prepare a small decorative flower border at the entrance of the farm, adjacent to the road. The tiller is used approximately 90% of the time in preparing the growing areas for plants raised for sale, and 10% in preparing the decorative border. The tiller qualifies for exemption because it is used directly in the production of horticultural commodities for sale more than 50% of the time.
- A partnership breeds and raises horses for sale. It also uses a portion of its property as a boarding and training facility for customers' horses. It makes the following purchases: food additives, horse shoeing tools, and grooming equipment. The food additives are used approximately 60% of the time in feeding the horses used for breeding for sale and 40% in feeding the horses being boarded; the horse shoeing tools are used approximately 75% of the time on the horses being bred for sale and 25% on the horses boarded for customers; the grooming equipment is used approximately 20% on the horses bred for sale and 80% on the horses boarded or trained for customers. The food additives and horse shoeing tools qualify for exemption because they are used more than 50% of the time directly in the production and handling and preservation of an agricultural product for sale, that is, horses. The grooming equipment does not qualify because it is

used directly for exempt purposes only 20% of the time; its use in the boarding and training of customers' horses is not a use in the production and handling and preservation of horses for sale.

- A tree nursery and landscaping business grows shade trees which it installs for its customers as part of its landscaping operation. It purchases tree seedlings, watering equipment, and digging equipment. The watering equipment is used during the growing process, and the digging equipment is used approximately 70% in the growing operations and 30% in the landscaping operations. The purchase of the watering equipment is eligible for the farm use exemption because it is used directly in production in the nursery's farming operations. The digging equipment also qualifies for exemption because, although it is used part of the time in the landscaping operations, it is used more than 50% of the time, that is, primarily, in production of an agricultural commodity for sale (trees). The seedlings are not eligible for exemption because they become the property which the business installs in its landscaping operation. When this business installs trees or performs other landscaping jobs on its customers' real property, it is acting as a contractor, rather than as a farmer. Contractors are liable for sales or use tax on the materials they install on their customers' real property.

The fact that an item of service or tangible personal property is purchased by a farmer does not in itself make the purchase eligible for exemption.

Examples:

- A vegetable farmer raises vegetables for sale. The farmer also raises a goat, a sheep, and several ducks for the enjoyment of the farmer's family and guests but does not sell the animals or their products. The farmer's purchases of feed for the animals are not exempt.
- A neighboring farmer raises goats, sheep, and ducks for their meat, milk, wool, and eggs for sale. The farmer also grows vegetables solely for his family's consumption. The farmer's purchases of fertilizer and a hoe for the vegetable garden are not eligible for exemption.

The following are **NOT EXEMPT** from taxes even if they are used directly and primarily in the farming operation:

- Automobiles;
- Energy (e.g., natural gas and electricity); and
- Materials used to construct a building or structure **WITH THE EXCEPTION OF** the following single-use agricultural facilities: silos, greenhouses, grain bins, and manure handling facilities.

Building materials used in constructing a silo, greenhouse, grain bin, or manure handling facility are exempt from sales tax IF used directly and primarily in the farm operation.

- Repair or replacement parts purchased by the farmer for such structures **ARE** also exempt.
- Tools and equipment used to construct such structures **ARE NOT** exempt.

Note: Single-use facilities must be designed and constructed to be readily dismantled and can be marketed or sold separately from the farmland and buildings. For example, demountable plastic covered framework made up of portable parts with no permanent

understructures or related apparatus. It shall not include a structure that encloses a space within its walls used for housing, shelter, or working, office or sales space, whether removable or not.

Examples:

- A vegetable farmer makes the following 3 purchases: a farm tractor used in preparing fields for planting, a commercial truck with manufacturer's gross vehicle weight rating over 18,000 pounds which the farmer registers with the Motor Vehicle Commission as a farm vehicle, and an all-terrain vehicle which is used to transport workers and farming implements to the work site. The all-terrain vehicle does not qualify for exemption; as an "automobile" it is excluded from the scope of the exemption. The commercial farm truck is not an "automobile". The commercial truck qualifies for exemption under the commercial truck exemption (N.J.S.A. 54:32B-8.43), regardless of whether it is used "directly and primarily" in production. The farm tractor, which is not required to be registered as a motor vehicle, is not an "automobile". It is farm equipment, which is exempt when used directly and primarily in production.
- A farmer, who grows horticultural products for sale, in greenhouses purchases building materials which the farmer intends to use to construct a permanent addition to the greenhouse. The farmer's purchase qualifies for exemption as tangible personal property used "directly and primarily" in production. Because the materials will be used to construct a greenhouse, they are not the kind of building materials that are excluded from the scope of the exemption.
- A farmer purchases lumber and other materials to build a barn. The farmer must pay tax on the purchase of these materials. The exemption does not apply to materials used to construct a building, with certain exceptions; barns are not among the four single-use exceptions above.

- A farmer uses electric and gas utility services directly and primarily in some production activities. The electric and gas utility services are subject to sales tax. The exemption does not apply to purchases of energy even when used “directly and primarily” in production.
- A farmer purchases fuel oil and water utility services for business use and home use. Oil, water, and other fuels and utilities, except natural gas and electricity, are exempt from sales tax under N.J.S.A. 54:32B-8.7. They need not be used in farming in order to qualify for the exemption, and they do not fall within the definition of energy in N.J.S.A. 54:32B-8.16.

Form ST-7

The purchaser should issue the seller a fully completed Farmer’s Exemption Certificate (Form ST-7) or other approved form in order to document the N.J.S.A. 54:32B-8.16 exemption.

The Division of Taxation shall relieve a seller of the tax otherwise applicable, if it obtains a blanket exemption certificate for a purchaser with which the seller has a recurring business relationship. This does not need to be renewed if there is a recurring business relationship between the farmer and seller. For purposes of this subsection, a recurring business relationship exists when a period of no more than 12 months elapses between sales transactions.

- Each sales slip or invoice based on such blanket certificate must show the farmer's name, address, and New Jersey tax registration number.
- The Farmer's Exemption Certificate may not be used to support claims for exemption based on provisions other than provided in the Division of Taxation, N.J.S.A. 54:32B-8.16.
- The Farmer’s Exemption Certificate is available through the county Rutgers Cooperative Extension Office and the Division of Taxation website.

OTHER EXEMPTIONS

Containers, wrapping supplies, and packing supplies **ARE EXEMPT** when purchased by a farmer for any use in that farmer's farming enterprise.

Examples that qualify for exemption include, but are not limited to:

- Crates used to store farming implements on the farm;
- Returnable and nonreturnable pallets used by a sod farmer to ship sod to market; and
- Burlap used to wrap the root balls of trees for sale on a tree farm.

The sale, rental, or lease of a commercial truck, having a manufacturer's gross vehicle weight rating in excess of 18,000 pounds, and registered as a farm vehicle is exempt from sales or use tax.

Examples of items that may be exempt from sales and use tax even though not used "directly and primarily" in the agricultural or horticultural operation include, but are not limited to:

- Protective equipment;
- Clothing, including work clothing, for example, gloves and boots; and
- Electronically transmitted software that is used directly and exclusively in the conduct of the farmer's business, even though not used "directly and primarily" in the production, handling and preservation of agricultural commodities for sale.

A fully completed Exempt Use Certificate (Form ST-4) or other approved form should be issued to the seller in order to document the exemptions described above.