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INFORMATIONAL PUBLICATION

Farmer's Guide to Sales and Use Taxes, Motor Vehicle Fuels Tax, Estimated Income Tax, and Withholding Tax

Purpose: This Informational Publication answers frequently-asked questions about farmer tax exemption permits and explains the taxation of sales made to and by those engaged in agricultural production, including a discussion of the exemption for certain seeds.

In addition, this publication describes the exemption and refund provisions for purchases of motor vehicle fuels by farmers, the rules for farmers to make estimated personal income tax payments, and withholding requirements for agricultural employees.

Effective Date: Effective upon issuance.

Statutory Authority: Conn. Gen. Stat. § 12-412(63) as amended by Public Acts 2018, No. 18-47, § 14; Conn. Gen. Stat. § 12-412(96); Conn. Gen. Stat. § 12-458; Conn. Gen. Stat. § 12-459; Conn. Gen. Stat. § 12-705; and Conn. Gen. Stat. § 12-722.

General Information: Retail sales of tangible personal property used exclusively in agricultural production are exempt from sales and use taxes under Conn. Gen. Stat. § 12-412(63) if the purchaser qualifies for and has been issued a *Farmer Tax Exemption Permit* by the Department of Revenue Services (DRS). Conn. Gen. Stat. § 12-412(63) does not apply to services.

1. Who may apply for a *Farmer Tax Exemption Permit*?

Any person engaged in agricultural production as a trade or business is eligible for an exemption permit. To be engaged in agricultural production as a trade or business, a person must **both** engage in the production with a profit motive and materially participate in the production. The applicant must also meet one of the following requirements:

- The applicant had gross income of \$2,500 or more from agricultural production, as reported for federal

income tax purposes, in the preceding taxable year or, on average, in the two preceding taxable years;

- An applicant whose gross income from agricultural production in the preceding taxable year was less than \$2,500 may still qualify for an exemption permit if, in the current or immediately preceding taxable year, the applicant bought an agricultural trade or business from a seller who had an exemption permit at the time of the sale. However, if the applicant does **not** carry on the agricultural trade or business for at least two years from the date of purchase, the applicant will be liable for the sales or use tax that would have been due without the exemption; **or**
- The applicant is starting a new farming business (start-up farmer) and intends to carry on agricultural production as a trade or business for at least two years.

2. Who qualifies as a start-up farmer?

A start-up farmer is a person who:

- Was not engaged in agricultural production as a trade or business in the preceding taxable year;
- Did not have gross income of \$2,500 or more from agricultural production, as reported for federal income tax purposes, in the preceding taxable year or, on average, in the two preceding taxable years; **or**
- Is a veteran who never owned or leased property for commercial agricultural production or who owned or leased property for such purpose for less than two years. A *veteran* is defined as a person (1) honorably discharged from, or released under honorable conditions from active service in, the armed forces, as defined in Conn. Gen. Stat. § 27-103, as amended by Public Acts 2018, No. 18-47, § 1, or (2) with a qualifying condition, as defined in said section, who has received a discharge other than bad conduct or dishonorable from active service in the armed forces.

3. Does a start-up farmer have any special requirements to qualify for a *Farmer Tax Exemption Permit*?

Yes. A start-up farmer must satisfy the following requirements:

- The farmer intends to carry on agricultural production as a trade or business for at least two years after the exemption permit is issued;
- The farmer's gross income from agricultural production, as reported for federal income tax purposes, will be at least \$2,500 in the second year or an average of at least \$2,500 per year for two years after the exemption permit is issued; **and**
- The farmer's gross expenses from agricultural production, as reported for federal income tax purposes, will be at least \$2,500 in the second year or an average of at least \$2,500 per year for two years after the exemption permit is issued.

Example: In the first year of farming, a start-up farmer had \$1,500 of gross income and \$3,000 of expenses from agricultural production. In the second year, the start-up farmer had \$3,500 of gross income and \$2,000 of expenses from agricultural production. The average gross income is \$2,500 $((\$1,500 + \$3,500)/2)$ and the average expenses are also \$2,500 $((\$3,000 + \$2,000)/2)$. This start-up farmer satisfies the income and expense tests.

If the start-up farmer does not meet all of these requirements, the farmer is liable for the sales or use tax that would have been due without the exemption. The tax on the purchases made under the exemption during the two year start-up period is due and must be paid with the first sales and use tax return due following the end of the start-up period.

If the start-up farmer does not meet the renewal requirements, the farmer may **not** reapply for an exemption permit as a start-up farmer.

4. What farming activities are considered agricultural production?

Raising and harvesting any agricultural or horticultural commodity; dairy farming; forestry; raising, feeding, caring for, shearing, training or management of livestock, including horses, bees, poultry, fur-bearing animals or wildlife; or raising and harvesting fish, oysters, clams, mussels, or other molluscan shellfish are considered agricultural production.

5. What farming activities are not considered agricultural production?

Individuals engaged solely in buying agricultural products for resale are not engaged in agricultural production. For example, cut flowers or plants sold by a farmer at a roadside stand are not agricultural products if the farmer purchased the flowers or plants for resale. Likewise, individuals whose only agricultural income is from farm rental or from the sale of livestock or crops received by them in payment for farm rental or other services are not engaged in agricultural production and may not include the income as income from agricultural production. Income from the sale of farm assets reported on federal Form 4797, Sales of Business Property, is not income from agricultural production.

6. Can selling timber qualify someone for the exemption permit?

No. Sales of timber by a person who is not engaged in farming or forestry management do not qualify as sales of agricultural products raised in agricultural production. However, those engaged in forestry management may apply for an exemption permit providing proof that a forest management plan is on file with the Department of Energy and Environmental Protection (DEEP).

7. Is a person engaged in the business of boarding horses owned by others eligible for a *Farmer Tax Exemption Permit*?

Yes. Agricultural production includes the raising, feeding, caring for, shearing, training, or management of livestock, including horses. Therefore, a farmer who boards or trains horses and who meets the requirements listed in Question 1 may qualify for an exemption permit. However, the income from giving riding lessons or providing rough board, which does not include the feeding and care of horses, does not constitute income from agricultural production. See Ruling No. 96-5.

8. Are livestock breeders eligible for a *Farmer Tax Exemption Permit*?

Yes, if the breeder meets the requirements listed in Question 1. A breeder who is required, for federal income tax purposes, to treat his or her income from the sales of livestock as capital gains does not qualify.

9. Is income from petting zoos, pony rides, carriage rides, or riding lessons considered income from agricultural production?

No.

10. Is the operator of a fish farm or hatchery engaged in breeding fish and confinement raising of fish eligible for a *Farmer Tax Exemption Permit*?

Yes. The operation of a fish farm or hatchery is considered agricultural production; therefore, the operator is eligible for an exemption permit.

11. How can I apply for a *Farmer Tax Exemption Permit*?

You must complete and submit **Form REG-8, Application for Farmer Tax Exemption Permit**. Submit your completed application and allow at least four weeks for DRS to process your application and mail your exemption permit. Visit the DRS website at **portal.ct.gov/DRS** if you are a new applicant and need a copy of Form REG-8.

To avoid delays in processing your application:

- Complete the current Form REG-8 in full. The name (or names) that appears on the Form REG-8 must be the same as the name (or names) on the federal return.
 - Attach copies of any federal income tax return schedules, for example, Schedule C (Form 1040), Profit or Loss From Business (Sole Proprietorship), or Schedule F (Form 1040), Profit or Loss From Farming, used to report the gross income and expenses from agricultural production and copies of the federal return pages as explained in the instructions for Form REG-8. If you submit a copy of Schedule C, you **must** include a list of the agricultural products you raise and the total sales from each product.
 - If you are a start-up farmer applying as a veteran, attach a copy of your DD 214, Report of Separation.
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12. May the names of both spouses appear on the *Farmer Tax Exemption Permit*?

Yes. An exemption permit is issued in the names of both spouses provided:

- The spouses filed a joint federal income tax return; **and**
 - Form REG-8 contains both spouses' names and is signed by both spouses.
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13. Can I get a refund of sales tax paid on purchases made before my *Farmer Tax Exemption Permit* was issued?

No. Sales tax will not be refunded for purchases made before an exemption permit was issued. You must present the exemption permit at the time the purchase is made to claim the exemption.

14. Do I have to renew the *Farmer Tax Exemption Permit*?

Yes. Exemption permits must be renewed every two years. For example, an exemption permit issued in 2018 is valid from October 1, 2018, or the date it is issued, whichever is later, until September 30, 2020. Farmers with a current exemption permit will receive a renewal package in 2020. To renew an exemption permit, attach the same documents as described in Question 11 to **Form REG-8R, Renewal Application for Farmer Tax Exemption Permit**.

A start-up farmer will initially be issued an exemption permit that is valid for two years from the date it is issued. When the farmer renews the exemption permit for the first time, the farmer may be issued an exemption permit for a period of less than two years. This exemption permit will cover a short period until the next regular renewal date.

15. May I transfer a *Farmer Tax Exemption Permit*?

No. The exemption permit may not be transferred or assigned to anyone and is null and void when the original applicant terminates agricultural production. You must return the exemption permit to DRS when you cease agricultural production.

If you transfer or sell your farm, the new owner must apply for a *Farmer Tax Exemption Permit*.

- If you transfer the farm, including transfers to a family member, and the new owner does not have \$2,500 or more in income from agricultural production from the prior year, the new owner can apply as a start-up farmer. See Question 2.
 - If you sell the farm, the new owner may qualify for an exemption permit. See Question 17.
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16. What if my address changes or the location of the farm changes?

If you change your address or the location of the farm changes, you must apply for a new *Farmer Tax Exemption Permit*. To apply, complete a new Form

REG-8, attach the old exemption permit, and submit these to DRS.

17. If I hold a *Farmer Tax Exemption Permit* and I sell my farm, will DRS issue a *Farmer Tax Exemption Permit* to the new farmer?

Yes, if the purchaser applies for a *Farmer Tax Exemption Permit* with DRS. However, if the purchaser does not carry on the agricultural business for at least two years from the date of purchase, the purchaser is liable for the sales or use tax otherwise due on purchases made during the period.

The transfer of the assets of the farm as part of the formation of a new entity also qualifies as a sale for the purposes of this provision. The purchaser of the farm, however, must reapply in his or her own name.

For example, a farmer who operates his farm as a sole proprietorship and holds an exemption permit forms a partnership or corporation and transfers the farm to it. The partnership or corporation may apply for an exemption permit. To avoid delays in issuing a new exemption permit, the applicant should also attach a written explanation of its relationship to the former permit holder to the Form REG-8.

18. What purchases may I make tax free with a *Farmer Tax Exemption Permit*?

You may use an exemption permit to buy goods that will be used only in agricultural production. Qualifying purchases include items such as a farm tractor, truck, or refrigeration equipment if the item will be used only in agricultural production. If an item will be used partly in the agricultural production process and partly for other purposes, it is fully taxable. For example, if you buy a truck or sport utility vehicle that will be used on the weekend to transport farm produce to a regional market and during the week to commute to a job, you cannot buy the vehicle tax free. You have to pay the tax because you will not use the vehicle only for agricultural production.

A vehicle purchased with an exemption permit for use other than in agricultural production will result in liability for use tax on the purchase of the vehicle, plus penalty and interest, even if the Department of Motor Vehicles (DMV) issued a farm license plate for that vehicle.

An exemption permit may also be used to buy spores, seedlings, roots, bulbs, tubers, cuttings, bushes, or any other propagative forms of vegetables, fruits, and herbs. If purchased for agricultural production, seeds of plants

commonly regarded as flowers or of plants considered ornamental, inedible, or for consumption only by animals may also be purchased tax exempt using an exemption permit.

Conn. Gen. Stat. § 12-412(63) does not apply to services. Therefore, you may not use a *Farmer Tax Exemption Permit* to purchase services.

19. Are there items that may be purchased exempt without a *Farmer Tax Exemption Permit*?

Yes. Vegetable seeds suitable for planting to produce food or an ingredient or flavoring for human consumption may be purchased exempt from tax without an exemption permit. The exemption applies only to the seeds of foods commonly regarded as vegetables, fruits, and herbs. Purchase of spores, seedlings, roots, bulbs, tubers, cuttings, bushes, or any other propagative forms of vegetables, fruits, and herbs may be made exempt from tax only with an exemption permit.

20. What documents must I provide to a retailer to show I am eligible for the farmer tax exemption from sales and use taxes?

You must provide a copy of your exemption permit to the retailer at the time of each purchase or you may issue a blanket certificate for a continuing line of exempt purchases. A *blanket certificate* is a copy of the original exemption permit with the words Blanket Certificate written across the top. The certificate is valid from the date it is issued until September 30 of the year the exemption permit expires.

The retailer **must** collect applicable sales tax unless you provide a copy of the exemption permit at the time of purchase.

21. Can I lease farm equipment tax free?

Yes. The lease of equipment used exclusively in agricultural production by a farmer who holds a valid exemption permit is exempt from tax.

22. Can I buy services like plowing, planting, harvesting, fertilizer application, or repairs to farm vehicles tax free with a *Farmer Tax Exemption Permit*?

No. The exemption is limited to purchases and leases of goods. You are liable for sales and use taxes on the purchase of any taxable service. Plowing, planting,

harvesting, fertilizer application, excavating, and other services are taxable as services to income-producing real property. Repairs to a farm vehicle are taxable as motor vehicle repair services. However, repair parts for vehicles and machinery used exclusively in agricultural production may be purchased with an exemption permit.

23. If I operate a farm and also provide custom hire work such as plowing, fertilizer application, or harvesting to other farmers, can I buy machinery and supplies to perform these services without paying sales tax?

No. You may only use a *Farmer Tax Exemption Permit* to buy equipment you will use exclusively in the production of agricultural products grown or raised by you. Your purchases do not qualify for the exemption if the equipment and supplies purchased are used other than in the production of agricultural products grown or raised by you.

24. If I renovate a building used exclusively for agricultural production, can I purchase materials for this project exempt from sales and use taxes?

Yes. Lumber, hardware, and other building materials sold directly to a farmer for the construction or renovation of a farm structure used exclusively in agricultural production, such as a barn for farm animals or a storage building for the harvest, can be purchased exempt from sales and use taxes.

However, if the building materials and supplies are sold to a contractor who is hired to perform the construction services, rather than to the farmer, the sales are fully taxable. Likewise, tax applies to the purchase of materials if the structure is not used exclusively in the agricultural production process. For example, if you purchase lumber to build or renovate a home, the lumber is fully taxable.

25. If I hire a contractor to renovate a farm building, is the charge for the service subject to tax?

Yes. Because the farmer tax exemption does not cover purchases of taxable services, you are liable for sales tax on the service charges for the renovation or repair of an existing farm structure. However, if the project involves the construction of a new farm building or an addition that expands the cubic footage of an existing farm building, the service charges are exempt from tax as a new construction project.

26. I hold a valid *Farmer Tax Exemption Permit*. May I purchase electricity, gas, or heating fuel for farm buildings tax free?

Yes, if 75% or more of the gas, electricity, or heating fuel is consumed in a metered building or location used for agricultural production. You must complete **CERT-115**, *Exempt Purchases of Gas, Electricity, and Heating Fuel*, and provide it to the utility company.

27. When is a farmer subject to use tax on purchases?

Use tax is due when taxable purchases are made but Connecticut sales tax is not paid. Goods purchased by a farmer with the farmer tax exemption are not taxable and are therefore not subject to use tax when the goods are used exclusively in agricultural production. However, a farmer is subject to sales and use taxes on purchases of goods that do not qualify for exemption because the goods are not used exclusively in agricultural production. If sales tax is not paid on taxable goods, use tax is owed on those goods. For example, a dairy farmer buys a hose from an out of state mail order company and does not pay sales tax. The hose is used to rinse the milking room floor and is used by the farmer to water the lawn of his home. The farmer is not using the hose exclusively in agricultural production and owes use tax on the hose.

A farmer can only claim exemption from sales and use taxes on goods. A farmer cannot claim exemption from sales and use taxes on services. A farmer that purchases taxable services without paying sales tax owes use tax on those services. Taxable services include but are not limited to repair or maintenance services to goods, snow plowing, landscaping, and horticultural services.

If you are required to have a sales tax permit, you must report and remit use tax on **Form OS-114**, *Connecticut Sales and Use Tax Return*.

If you are not required to have a sales tax permit, you must report taxable business purchases on which sales tax was not paid on **Form OS-114BUT**, *Connecticut Business Use Tax Return*, for the reporting period in which you made the taxable purchase. If you made purchases as an individual and not in connection with a business, you must report taxable purchases made in the preceding year on which sales tax was not paid on your Connecticut income tax return or on **Form OP-186**, *Connecticut Individual Use Tax Return*.

28. Must I obtain a *Sales and Use Tax Permit* to make sales?

Yes. Any farmer selling goods **must** register for a *Sales and Use Tax Permit* and **must** collect sales tax on the sale of taxable goods. Taxable goods include plants, certain seeds, trees, hay, feed, mulch, fertilizer including manure, livestock, poultry, rabbits, living or cut Christmas trees, wreaths, decorated or carved pumpkins, and flowers. Tax must be collected on all sales unless they are otherwise exempt.

However, if you are exclusively in the business of boarding horses, dairy farming, or raising and selling tobacco, fruit, or vegetables, you are not required to obtain a *Sales and Use Tax Permit*.

29. What sales commonly made by farmers are not taxable?

Exempt sales include:

- Food products including maple syrup, honey, eggs, cider, cakes and pies, vegetables, and fruits. Sales of candy and soda are subject to tax because they are not considered food products. See **Policy Statement 2002(2)**, *Sales and Use Taxes on Meals*.
 - Sales made for resale to a person who is engaged in the business of reselling goods of the type being purchased. The purchaser must provide you with a properly completed *Connecticut Sales and Use Tax Resale Certificate*.
 - Sales made to purchasers who have been issued a Connecticut *Farmer Tax Exemption Permit* and will use the merchandise being purchased exclusively in agricultural production. The farmer must provide the seller a copy of their current exemption permit at the time of purchase.
 - Sales of farm goods at auction are sales for resale. The auctioneer must provide you with a properly completed *Connecticut Sales and Use Tax Resale Certificate*.
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30. How do I register for a *Sales and Use Tax Permit*?

To obtain a *Sales and Use Tax Permit*, complete and submit **Form REG-1**, *Business Taxes Registration Application*, and pay the \$100 application fee. The permit is valid for two years and may be renewed without an additional fee. You may apply by mail, on the Internet at portal.ct.gov/DRS (select **Taxpayer Service Center (TSC)**), or in person at any DRS office.

31. What are the filing requirements for sales and use taxes?

DRS will notify you of your filing status upon registration. The due date for Form OS-114 is the last day of the month following the end of the reporting period. A return must be filed for every period, even if no tax is due or no business was conducted for a particular period. See Question 27 for use tax filing requirements.

A seller may request permission to file on an annual basis if his or her sales and use tax liability is less than \$1,000 per year.

32. What are the estimated Connecticut income tax requirements for farmers?

You must make estimated Connecticut income tax payments if the Connecticut income tax you owe after tax credits minus Connecticut income tax withheld and any pass-through entity tax credit (PE Tax Credit) is \$1,000 or more. If you are a farmer who is required to make estimated tax payments, you must make one payment due on or before January 15 following the end of the taxable year. The required annual payment for farmers is the lesser of:

- A. **66 2/3%** of the income tax shown on your **current year's** Connecticut income tax return; **or**
- B. **100%** of the income tax shown on your **prior year's** Connecticut income tax return if you filed a Connecticut income tax return for the prior year that covered a 12-month period.

If on or before March 1 following the end of the taxable year you file a Connecticut income tax return and pay in full the amount computed on the return as payable, you will not be subject to interest for not making an estimated income tax payment. An individual is a farmer for any taxable year if the individual is a farmer as defined in IRC § 6654(i)(2) for the taxable year.

33. Must I withhold income taxes from the wages of my agricultural employees?

An agricultural employer must withhold Connecticut income tax if:

- The employer is required to withhold federal income tax from the worker's wages; **or**
- The employer and the employee voluntarily agree to have Connecticut income tax withheld.

See the current edition of *Connecticut Employer's Tax Guide, Circular CT*, for withholding instructions and filing requirements.

34. Can I purchase motor vehicle fuels exempt from tax?

If you hold a *Farmer Tax Exemption Permit*, you may purchase motor vehicle fuels exempt from tax, at other than a retail outlet, as long as the gasoline or diesel fuel is used either in a vehicle not licensed to be operated on state highways or in a vehicle registered exclusively for farm use with the DMV. In addition, the fuel may not be delivered to a tank in which you keep fuel used for both farm and non-farm purposes. You must furnish the fuel distributor with **Form AU-302, *Farmer Declaration Motor Vehicle Fuels Tax Exemption***, at the time of purchase.

35. Is there another way for a farmer not to be taxed on purchases of motor vehicle fuels?

Yes. Farmers holding a *Farmer Tax Exemption Permit* who did not claim the exemption discussed in Question 34 may file a claim for refund on or before the last day of May as long as the refund claim involves the purchase of at least 200 gallons of fuel during the preceding calendar year. You must file a refund claim using **Form AU-725, *Motor Vehicle Fuels Tax Refund Claim – Farm Use***. Submit originals or copies of each numbered slip or invoice issued to you at the time of each purchase with the claim for refund.

Effect on Other Documents: Informational Publication 2010(16), *Farmer's Guide to Sales and Use Taxes, Motor Vehicle Fuels Tax, Estimated Income Tax, and Withholding Tax*, is modified and superseded and may not be relied upon after the date of issuance of this publication.

Effect of This Document: An Informational Publication issued by the DRS addresses frequently-asked questions about a current position, policy, or practice, usually in a less technical question and answer format.

For More Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Visit the DRS website at portal.ct.gov/DRS to download and print Connecticut tax forms and publications.

Paperless Filing/Payment Methods (fast, easy, free, and confidential): Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at portal.ct.gov/TSC to file a variety of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or log directly into the *TSC* to file returns and pay taxes.

Pay Electronically: You can pay taxes for tax returns that cannot be filed through the *TSC*. Log in and select the *Make Payment Only* option. Choose a payment date up to the due date of the tax and mail a paper return to complete the filing process.
