



Sales Tax Responsibilities of Agricultural Producers

The purpose of this publication is to provide information on State tax requirements that affect agricultural producers. This publication is meant to be a source of general information and not a substitute for tax laws or regulations.

REGISTRATION

Prior to July 1, 1989, the Tax Department did not require persons producing agricultural products to hold a business registration certificate in order to issue consumers sales tax exemption certificates. Effective July 1, 1989, any one claiming any exemption by use of the exemption certificate must register with the Department of Tax and Revenue and obtain a registration certificate (business license). Registration is accomplished by completing the application for registration certificate (WV/BUS APP). Agricultural producers are exempt from the \$30 annual fee.

PURCHASES

In general, tangible personal property or taxable services purchased for use or consumption in connection with the commercial production of an agricultural product are exempt from sales or use tax. However, purchases of tangible personal property and services to be used or consumed in the construction of, or permanent improvement to, real property and purchases of gasoline and special fuel are not exempt. The exemption applies to purchases for use in the commercial production of agricultural products as a business and not to purchases for use or consumption for any other purpose. Therefore, a person in the business of farming may purchase feed, seed, fertilizer, repairs to a tractor, etc., without payment of sales or use tax. Purchases of tangible personal property or services by a farmer to be used or consumed in the construction or improvement of real property are not exempt from the sales or use tax. For example, purchases of building materials to construct barns or sheds are taxable. Purchases of nails and fencing are not considered permanent improvements to real property and are not taxable.

It should be noted that "commercial production of an agricultural product" means the production of food, fiber, or woodland products (but not timbering activity) by means of cultivation, tillage of the soil or by the conduct of livestock, dairy, apiary, or any other plant or animal production activity and all farm practices related, usual or incidental thereto, including the storage, packing, shipping and marketing of agricultural or farm products, but not including any manufacturing, milling or processing of such products by persons other than the producer thereof provided the taxpayer sold at least one thousand dollars (\$1,000) of agricultural products during the previous year.

In other words, persons engaged in farming who sell less than \$1,000 of products annually are not considered to be commercially producing agricultural products for sales and use tax purposes and are not eligible to purchase items exempt from sales or use tax.

SALES

Agricultural producers should also be aware that prior to July 1, 1990 sales by the producer of agricultural food products and beverages to consumers at pick-your-own fruit and vegetable operations, farmers markets, roadside stands, or through similar operations are subject to sales tax. It is the responsibility of the seller to collect and remit the tax or to obtain from the purchaser a properly completed exemption certificate.

Beginning July 1, 1990, agricultural producers who sell their own livestock, poultry, or other farm products will not be required to collect sales tax if they are not engaged in making other retail sales. This also applies to sales of livestock sold at public sales

sponsored by breeder's, registry associations or livestock auction markets. Farmers must maintain adequate records to support the exempt status of their sales.

The exemption from collection of the sales tax does not apply to agricultural producers who purchase livestock, poultry or other farm products for resale. They must collect and remit the tax or obtain from the purchaser a properly completed exemption certificate.

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