



JANUARY 2012

TAX TOPICS

SALES AND USE TAX

Texas Comptroller of
Public Accounts

Texas Sales Tax on the Use of Horses

Farmers and ranchers are not exempt entities, so not all purchases that farmers and ranchers make for their use on a farm or ranch are exempt from sales tax. Some agricultural items, such as horse feed, are exempt by law, while other items, such as a saddle, are taxable unless purchased for exclusive use on a commercial farm or ranch in the production of food or other agricultural products for sale.

New Agricultural Registration Number and Agricultural Exemption Certificate Required for Some Items Beginning in 2012

Beginning Jan. 1, 2012, purchasers of agricultural items will be required to provide sellers with a new exemption certificate (**Form 01-924**) or their signed confirmation letter containing their Texas Agricultural and Timber Registration Number (Ag/Timber Number) issued by the Comptroller of Public Accounts. The exemption certificate will cover purchases not already exempted by law. To qualify for the exemption, items must be used exclusively on a commercial farm or ranch in the production of agricultural products for sale. The purchaser must complete an **exemption certificate** to purchase these items tax-free:

- fertilizer, fungicides, insecticides, herbicides, defoliants and desiccants (drying agents) used *exclusively* in agricultural production;
- all medications, tonics, restoratives or other therapeutic preparations (vaccines and drenches, for example) for farm and ranch animals; and

- machinery or equipment used exclusively in the production of food, grass, feed and other agricultural products or in building or maintaining farm and ranch roads and water facilities.

Under House Bill 268, passed by the Texas Legislature in 2011, commercial agriculture or timber producers will need an Ag/Timber Number issued by the Comptroller's office to make eligible tax-exempt purchases beginning Jan. 1, 2012. The agricultural industry, including retailers and producers, felt the need to have a registration process, because many ineligible purchasers have falsely claimed an agricultural sales tax exemption. What's more, retailers have had no effective way of ensuring the eligible products they sold were actually used in an exempt agricultural manner. Retailers and producers both agreed the registration process was necessary to curb abuse and demonstrate to the Legislature they were willing to address the problem themselves.

Blanket exemption certificates issued to suppliers on the old form must be replaced with the new certificate for purchases made on or after Jan. 1, 2012. The certificates will be good until

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the customer revokes the certificate in writing to the retailer or the retailer is notified that the registration number associated with the blanket exemption certificate has expired, or been canceled or suspended.

You can apply for the Ag/Timber Number online at comptroller.texas.gov/taxes/ag-timber. By applying online you will get an Ag/Timber Number immediately upon completion. You can also print a paper application, or have one faxed to you by calling 1-800-531-1441.

Always Exempt

The items identified below are exempt from Texas sales tax, regardless of who is buying the item or how or where it will be used. No exemption certificate or Ag/Timber Number is needed to purchase these items tax-free.

Horses. Sales of horses are exempt from Texas sales and use tax under Tax Code Section 151.316 (a)(1).

Horse feed. Sales of horse feed, including grain, hay and supplements, are exempt under Tax Code Section 151.316 (a)(3).

Services – the following services are not taxable:

- Horse transport;
- Horse boarding;
- Veterinary medical services;
- Farrier services (shoeing and trimming hoofs);
- Horse training; and
- Stud services.

Tax is due on all taxable items used to provide a nontaxable service unless the item is otherwise exempt, such as horse feed.

Exempt When Used in a Qualifying Manner

Many items used with horses, such as saddles, bridles, troughs and fences, are taxable but can qualify for exemption if they are used exclusively on a farm or ranch or to produce horses for sale.

DEFINITION OF “FARM OR RANCH”

“Farm or ranch” includes one or more tracts of land used, in whole or in part, in the production of crops, livestock or other agricultural products held for sale. See Tax Code Section 151.316(c)(1). Horses are agricultural products. The following equine businesses qualify as farms and ranches:

- Horse breeding facilities;
- Stud farms;
- Horse training facilities that train horses that will be sold; and
- Ranches that use horses in their operation.

The following activities **do not produce agricultural products for sale and do not qualify as farms and ranches**:

- Owning horses for pleasure riding, show or sport;
- Horse boarding;
- Training facilities that train horses used for sport, pleasure or show;
- Riding stables;
- Racing stables that are not horse breeders;
- Racetracks;
- Veterinary clinics;
- Commercial arena operations; and
- “Dude” ranches, lodges and hunting operations.

ITEMS THAT CAN QUALIFY FOR EXEMPTION

The items identified below qualify for exemption when used *exclusively* on a farm or ranch to produce agricultural products, including horses, which will be sold.

“Exclusively” means the item must be used 100 percent of the time on a commercial farm or ranch in the production of agricultural products for sale. An item loses its exemption if it is used off a farm or ranch, or if it is used for any purpose on a farm or ranch other than the production of agricultural products for sale.

An exemption certificate is required in order to buy or sell these products or services tax free. Purchasers claiming a sales tax exemption on the items identified in this section purchased on or after

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Jan. 1, 2012 must issue a **Texas Agricultural Sales and Use Tax Exemption Certificate, Form 01-924** or signed confirmation letter showing a valid Ag/Timber number.

- Fertilizers, fungicides, insecticides, herbicides, defoliants and desiccants
- Electricity used in agriculture or timber operations;
- Services performed on exempt tangible personal property identified in this list;
- Farm, timber and off-road vehicles; and
- Machinery and equipment.

The term machinery and equipment includes but is not limited to:

- Fencing material and gates used to contain agricultural livestock;
- Portable stalls, corral and gate panels;
- Working saddles and tack;
- Lunge lines, lunge whips and lead ropes;
- Stocks;
- Farrier tools;
- Hand tools, hay hooks, twitches and balling guns;
- Feeders, hay racks, water troughs and buckets;
- Tractors, loaders and implements;
- Hot walkers; and
- Manure carts, spreaders and forks.

Note: Materials used to build barns, covered arenas and general purpose buildings do not qualify for exemption.

MOTOR VEHICLES

Motor vehicles are taxed under a different tax code than the items above. As a result, motor vehicles have different standards and qualifications for exemption. The motor vehicle tax code provides exemptions for farm machines and farm trailers.

Section 152.001(13) of the Tax Code defines a “farm machine” as ‘a self-propelled motor vehicle’ specially adapted for use in the production of crops or rearing of livestock, including poultry, and use in feedlots and includes a self-propelled motor vehicle specially adapted for applying plant food materials,

agricultural chemicals or feed for livestock. “Farm machine” does not include any self-propelled motor vehicle specifically designed or specially adapted for the sole purpose of transporting agricultural products, plant food materials, agricultural chemicals or feed for livestock.

Farm vehicles and trailers used *primarily* for farming or ranching are exempt from motor vehicle sales and use tax. An owner must use a farm or ranch trailer primarily in the production of food for human consumption; grass; feed for any form of animal life; or other livestock or agricultural products to be sold. *Primarily* means at least 80 percent of the operating time. If the trailer is not used primarily in an exempt manner, motor vehicle tax is due.

A standard pick-up truck is not exempt as a farm motor vehicle, even though it may have a farm registration and may be operated with farm plates. The type of cab does not determine the pick-up truck’s eligibility. For tax purposes, a farm trailer means a trailer or semitrailer (including a gooseneck trailer) designed and used primarily as a farm or ranch vehicle.

A horse trailer with sleeping quarters is not exempt, nor is any trailer used for transporting horses to and from competitions or shows.

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