

# Sales Tax Exemptions:

How to Save \$ on Farm Purchases and Everything Else  
You Wanted to Know about Sales Tax Exemptions



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New York Farm Bureau • 159 Wolf Rd., Albany, NY 12205 • 800-342-4143 • [www.nyfb.org](http://www.nyfb.org)

## What is the Farmer's Sales Tax Exemption?

The Farmer's Sales Tax Exemption Program is landmark legislation recognizing that farmers provide a quality, abundant food source as well as many environmental and economic benefits to our community and state. Under the legislation, certain items used predominantly (meaning at least 51% of the time) in production of agricultural products can be purchased by a qualified farm sales tax exempt.

## How is "Farming" defined?

Generally the Department of Taxation and Finance considers farming to be the participation in some sort of commerce activity. This means that the items purchased under the exemption have to be used predominantly to produce products that will be sold as part of a business. Under that interpretation, purchases of trellises for grapes or equipment for making hay to sell would be exempt from sales tax, building supplies for a horse barn used solely for enjoyment would not.

Farms that undertake commercial activity in one of the following areas are eligible for the exemption:

- Agriculture; including livestock, dairy, poultry
- Floriculture
- Horticulture; includes nursery stock, ornamental shrubs, ornamental trees & flowers
- Viniculture
- Viticulture
- Aquaculture; including fish, fish products, water plants & shellfish
- Silviculture; including the growing & harvesting of trees, bushes & shrubs
- Commercial horse boarding operations are also included. They are defined as enterprises of at least 7 acres and 10 boarding horses that receive \$10,000 or more in gross receipts annually from the boarding of horses. This does not include facilities that are primarily used for horse racing.

Unlike many other programs, there are no minimum acreage or income limits to qualify for the program. The one exception to this is a commercial horse boarding operation.

## What about beginning farms?

The Department of Taxation & Finance does realize that farms may not have significant sales in the first few years and allows a three to five year window for farms to move from "hobby" to "commercial" status. This status is determined by the Department, based in part on the farm's long-term business plan.

## What purchases are tax exempt?

**Personal Property:** Purchases for personal property, whether or not incorporated into a building, are exempt from state and local sales and use taxes when the property is used or consumed predominantly either in farm production or in a commercial horse boarding operation. Under a former law, property had to be used "directly" in agricultural production. Now, property is considered predominantly used in agriculture if more than 50% of its use is in farm production.

**Computers:** Computers qualify for tax exemption if the computer is used predominantly in either farm production or a horse boarding operation. Farm production would include, but is not limited to, such things as operating milking machines, measuring and delivering feed mixtures to bunks, turning irrigation systems on, performing agricultural research, preparing and maintaining animal records, and others.

**Machinery & Equipment:** Machinery or equipment that is permanently installed or used predominantly in farm production qualify for the exemption. Some examples are; barn cleaners, barn ventilation and fans, conveyors, driers, elevators, irrigation pipes and electrical systems.

**Services Rendered:** Services rendered for installing, maintaining, or repairing of tangible personal property are exempt from sales taxes, again, provided the property is used predominantly for agriculture production or a commercial horse boarding operation.

**Building Materials:** The purchase of building materials is exempt from sales taxes when the materials are used to erect, add to, alter, improve, install, maintain, service or repair a structure, building, or other real property used predominantly either in farm production or in a commercial horse boarding operation. The exemption, for example, would apply to cow or horse barns, hay storage barns, fences, buildings for parking, storing or repairing machinery, milk houses, grain storage, cold storage buildings if used for produce still in the “production phase”, silos, greenhouses and any housing provided for employees. A farmer’s personal residence, buildings to house motor vehicles, or buildings for product retail are not included in the tax exemption.

**Motor Vehicles:** Motor vehicles, trailers, all-terrain vehicles, motorcycles, boats and snowmobiles that are for use primarily for farm production and/or a commercial horse boarding operation may be exempt from sales taxes. These vehicles will qualify for the exemption if they are used more than 50% of the time on property actually farmed or used in a horse operation, or in direct travel between properties used in farm production. Usage is measured in hours of use or miles traveled, whichever the farmer chooses.

**Utilities, Utility Services, Motor Fuel & Diesel Motor Fuel:** Purchases of fuel (excluding motor fuel or diesel fuel), gas, electricity, or refrigeration that is used either in farm production or commercial horse boarding operations, are exempt from sales taxes.

- Diesel motor fuel is included in the exemption, but does not apply to fuel consumed on New York State highways, only that used on-farm or in fields. The exemption is limited to the sales and use of no more than 4,500 gallons of diesel motor fuel in a 30-day period. To receive the exemption farmers need to provide the seller with a completed Form FT-1004, Certificate for Purchases of Diesel Motor Fuel for Farmers and Commercial Horse Boarding Operations. This form will also exempt the farm from the NYS Petroleum Business and Fuel Excise taxes.
- Motor fuel (gasoline) is not exempt from sales taxes. However, a refund or credit may be claimed for tax paid on motor fuel if consumed in farm production or a commercial horse boarding operation. The refund is limited to the first 1,500 gallons purchased in 30-day period, however exemptions from this limit are available. The refund is obtained by filing Form FT-420, Refund Application for Farmers Purchasing Motor Fuel. This will also provide a refund for any NYS Petroleum Business and Motor Fuel Excise taxes paid.

### **What about a sales tax number?**

Because of the traditional way sales tax exemption programs work, many people have questions about how to get a sales tax exemption number to participate in the program. Unlike other exemption programs however, the Farmer's Sales Tax Exemption does not require registration with the Department of Taxation & Finance. Instead the system is based completely on a farmer's affidavit that the items being purchased are qualified to receive the exemption.

### **Obtaining the Farmer's Sales Tax Exemption:**

The process works by the farmer submitting a completed form ST-125 to a vendor within 90 days of a transaction (this can either be a blanket form for multiple purchases or a one time purchase form). The form is a claim by the farmer that the items being purchased do not need to have sales tax charged. The vendor keeps this form and all receipts of the farm's purchases on file to verify to Tax & Finance that sales tax did not need to be collected on the purchases. The Department always has the option of then auditing the farm to ensure the purchases were truly eligible for the exemption. It is the farm's responsibility to demonstrate that the exemption is appropriately being utilized.

Nothing requires a vendor to accept the exemption. If a vendor feels an individual is not qualified and therefore does not extend the exemption, the farmer can either pay the tax up-front and file for a refund from NYS or take the business elsewhere.

If a farm files for a refund, form AU-11 needs to be completed. It can take up to four months for a refund to be returned to the farm.

### **NYS Sales and Fuel Tax Exemption Form Index**

ST-125: This form should be used to avoid sales tax on qualified items (other than fuel) at the time of purchase.

AU-11: For use in obtaining a refund for sales tax paid on items qualified for exemption.

DTE-803: For use in claiming the sales tax exemption on a qualified vehicle purchased from a non-dealer. Item number 13 provides the exemption.

For Fuel Tax Exemption Forms, please refer to the Fuel Tax Packet

**Where can I go for more information?** You can call the Department of Taxation & Finance at 1-800-225-5829 for more details. For the correct forms you can link to NYFB website at [http://www.nyfb.org/resources/Taxes\\_16\\_topic.htm](http://www.nyfb.org/resources/Taxes_16_topic.htm) or call the office at 1-800-342-4143.

