

The following are **not** classified as "farming enterprises" for sales or use tax purposes:

- ▶ Horse boarding or training facilities;
- ▶ Botanical display gardens;
- ▶ Game hunting preserves;
- ▶ Sport and recreational fishing;
- ▶ Dog kennels;
- ▶ Raising commodities or keeping animals for one's own use.

Examples of taxable tangible personal property not used "directly" include shop tools, equipment and supplies; record-keeping materials, advertising and promotion materials; computer and software; equipment used to transport products to market or to customers, or in displaying product or in operating a store; first aid supplies and accident prevention equipment; or property used for personal comfort of the farmer, employees, or customers.

FARMERS EXEMPTION CERTIFICATE (FORM ST-7)

Farmers, nursery owners and greenhouse owners use form ST-7 to be exempt from paying sales tax on items and certain services purchased for use in their farming operation. *A farmer does not need to be registered with the Division of Taxation to issue Form ST-7 to a supplier.*

This brochure was prepared by the New Jersey Department of Agriculture with technical review by the New Jersey Division of Taxation. For more detailed information, call the Division of Taxation, (609) 292-6400 or the Department of Agriculture (609) 984-2503

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Amendments made in 2000 to the Sales and Use Tax Act for purchases used directly and primarily in producing farm products for sale (P.L. 1999, Chapter 314). These amendments:

• **CLARIFIED** that the exemption applies only to purchases by a farmer for use on his or her own farm.

• **INCLUDED** explicitly "game animals" and the products of aquaculture within the list of examples of agricultural commodities that might be produced on a farm.

• ADDED THESE EXEMPTIONS:

- ◆ Tangible personal property, which, after installation, would become part of a structure (e.g. animal feeding and water equipment in a barn, fans in a greenhouse).
- ◆ Materials used to construct silos, greenhouses, grain bins, and manure handling facilities.
- ◆ Production and conservation services are now exempt (e.g. spreading lime or fertilizer, custom spraying, etc.).
- ◆ Purchases used directly and primarily in "handling and preservation" as well as actual "production" of agricultural commodities.
- ◆ Containers used in a farming enterprise are exempt (e.g. pallets, baskets and crates, boxes).

NEW JERSEY SALES TAX ON FARMERS' PURCHASES

When Tax is Due
And
When a Purchase is Exempt

NEW JERSEY
DEPARTMENT OF AGRICULTURE
P.O. Box 330, Trenton, NJ 08625

This primer provides a general overview of some basic provisions of the **New Jersey Sales and Use Tax Act** as it applies to farmers purchasing items or services used in producing agricultural commodities for sale.

The **New Jersey Sales and Use Tax Act** imposes a tax of 6% upon the receipts from every retail sale of tangible personal property and the sale of certain services, except as otherwise provided in the Act.

For farmers producing agricultural or horticultural commodities for sale, purchases are subject to sales and use tax, or exempt, based on the specific circumstances of their use. *While purchases of certain items or services may be considered essential to the conduct of the business of farming because their use is required, either by law or practical necessity, this does NOT in itself, mean that the property is exempt from sales or use tax.*

CRITERIA FOR EXEMPTIONS

To be exempt from paying sales tax on a purchase, the item must be used by a farmer **directly and primarily** in the **production, handling and preservation for sale** of agricultural or horticultural commodities at a farming enterprise.

"Handling and preservation" means the care and maintenance of farm animals and of agricultural commodities during production for sale and up to the point when the commodity reaches a marketable state and the prevention of spoilage or deterioration of agricultural or horticultural commodities during and after production until they reach a marketable state.

DETERMINING EXEMPTIONS

In determining whether a service or item is used directly for an **exempt purpose**, the following are to be considered:

- **Physical proximity** of the item to the production, handling or preservation for sale process in which it is used;
- **Proximity of the time of use** of the property or service to the time of use of other property or services employed before or after it in the production, handling or preservation of agricultural or horticultural commodities;
- Active/causal **relationship between the use** of the property or service in question **and the production**, handling or preservation agricultural or horticultural commodities;

EXAMPLES OF EXEMPT PURCHASES

Farmers who produce agricultural or horticultural commodities for sale do NOT have to pay sales or use tax on farm equipment used for tilling, planting, maintaining, or harvesting crop or on equipment used directly in raising livestock or their products for sale. Supplies, such as seed, plants, plugs, liners, fertilizer, lime, pesticides, mulch film, drip irrigation, feed, supplies/medicines for "productive animals" on farms are exempt when used directly.

Production services purchased by a farmer that are part of the process of planting, breeding, propagating, feeding, fertilizing, raising or harvesting agricultural or horticultural commodities on that farmer's farming enterprise for the purpose of selling those commodities are exempt

PURCHASES SUBJECT TO SALES OR USE TAX

By law, farmers **must** pay sales or use tax on:

- ✓ Automobiles, including pickup trucks;
- ✓ Energy;
- ✓ Materials used to construct a building or structure, with the exception of silos, greenhouses, grain bins, manure handling facilities;
- ✓ All items purchased which **are not used directly and primarily** in the production, handling, and preservation for sale of agricultural or horticultural commodities for sale on a farming enterprise.
- ✓ A contractor's purchases of tangible personal property to be installed on a customer's farm premises or consumed during the work performed by the contractor on that property;
- ✓ Purchases of items used by a service provider in rendering services, regardless of whether the services rendered will be exempt.
- ✓ Purchasing certain services including; repairing farm equipment, janitorial services; landscaping, snow removal, maintenance services, grooming horses or other animals kept for the farmer's personal use or enjoyment, repairing a greenhouse, imprinting stationery, painting or maintaining a barn, or repairing a farm truck.