

“To Farm or Not To Farm: That is the Sales Tax Exemption Question”



By

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History of Tax Exempt Status

- For many years, farmers and ranchers have received an exemption from paying state sales tax for items used to produce agricultural products
- Tax exemption helps farmers and ranchers stay in business through tough years

History of Tax Exempt Status

- 2 Step process to receive exemption:
 - state that he or she is “sales tax exempt”, and
 - fill out a form
- With the form in hand, the purchaser is permitted to purchase the product without paying the seller any sales tax



TEXAS SALES AND USE TAX RESALE CERTIFICATE

Name of purchaser, firm or agency _____ Phone (Area code and number) _____
Address (Street # number, P.O. Box or Rural route) _____
City, State, ZIP code _____
Sales taxes or Use Tax Permit number (or out-of-state reseller's registration number or sales permit for Texas Period - must contain 11 digits if from a Texas permit) _____
(Non-residents must show their Federal Taxpayer's (Employer's) PPOC number on the certificate and give a copy of their Mexican registration form to the seller.)

I, the purchaser named above, claim the right to make a non-taxable purchase (for resale of the taxable items described below or on the attached order or invoice) from:

Seller _____
Street address _____
City, State, ZIP code _____
Description of items to be purchased on the attached order or invoice _____
Description of the type of business activity generally engaged in or type of items normally sold by the purchaser: _____

The taxable items described above, or on the attached order or invoice, will be resold, rented, or leased by me within the geographical limits of the United States of America, its territories and possessions, or within the geographical limits of the United Mexican States, in their present form or attached to other taxable items to be sold.

I understand that if I make any use of the items other than retention, demonstration or display while holding them for sale, lease or rental, I must pay sales tax on the items at the time of use based upon either the purchase price or the fair market rental value for the period of time used.

I understand that it is a criminal offense to give a resale certificate to the seller for taxable items that I know, at the time of purchase, are purchased for use rather than for the purpose of resale, lease, or rental and, depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

Reseller: Yes No Not sure
sign here

This certificate should be furnished to the supplier. Do not send the completed certificate to the Comptroller of Public Accounts.

Problems that Arose with Tax Exemption

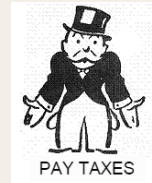
- Anyone could fill out the form and claim an AG Exemption
 - However, if the purchaser claimed the AG Exemption improperly, then the SELLER is responsible to pay tax
 - As a result: NEW LAW!!

Example of Prior Abuse (The SELLER is the Victim)

- **A 4-wheeler, claimed to be used for farm chores, is sold by SELLER and sales tax exempted because the PURCHASER fills out the form**
- **When the tax-exempt form is later reviewed by the Texas Comptroller's Office, the agricultural purpose is not justified (i.e. product is used for a non agricultural purpose)**
- **The SELLER is liable to pay the sales tax used for a non agricultural purpose**

New Law to Curb Abuse H.B. 268

- Sales Taxes must be collected
- The exemption is helpful to farms across the state and should continue
- The abuse must be curbed
- Legislature passed a new law to satisfy both interests – H.B. 268



Requirements to Receive Tax Exemption – H.B. 268

- All PURCHASERS of items used to produce agricultural products must apply to the State of Texas for an Agricultural and Timber Registration Number
- The Registration Number must be presented to all SELLERS to receive tax exempt status

Now: PURCHASER must prove tax exempt status in advance

Registration Number – H.B. 268

- The Registration Number must be renewed every 4 years by purchasers
- The Registration Number may be revoked by the Comptroller in the event of non-compliance
- In the event of revocation, the purchaser must notify each seller whom the purchaser previously issued a claim of exemption with that his or her Registration Number has been revoked

Registration Number

- If the exemption certificate includes a Registration Number, (issued by the Comptroller)
- Then, the SELLER has “sufficient documentation” to grant the AG Exemption on the purchase

Purchases that Require a Registration Number

When claiming a sales tax exemption, a Registration Number is required for the following types of items, among others:

- All work animals, animals which produce food for human consumption, feed for animals, seeds for consumption by animals or humans
- Fertilizers, fungicides, insecticides, herbicides, etc.
- Machinery and equipment used exclusively on a commercial farm or ranch in the building or maintaining of roads or water facilities
- Machinery and equipment used by an original producer at a location operated by the producer for packing, processing and marketing agricultural products

Purchases that Require a Registration Number

When claiming a sales tax exemption, a Registration Number is required for the following types of items, among others:

- Machinery and equipment exclusively used in an agricultural aircraft operation

Purchases that Require a Registration Number, Continued

- Tangible personal property incorporated into a structure used solely for poultry carcass disposal
- Components of irrigation systems used in the production of agricultural and timber products for sale
- Seedlings used in the production of timber for sale
- Electricity used in agriculture of timber operations

Motor Vehicles

A valid Registration Number is also required when claiming an exemption from motor vehicle tax on qualifying farm or timber vehicles, including vehicles purchased or to be leased to qualifying farmers, ranchers, and timber operators

Rental Equipment

A valid Registration Number is also required when claiming an exemption for the rental of a farm machine, a trailer or semi tractor for use primarily for farming and ranching

Effective Date

The new law became effective on September 1, 2011 with a grace period to allow for compliance by January 1, 2012 – this means all PURCHASERS and SELLERS MUST comply with the law on or before January 1, 2012

Effective Date

- Changes made by the new law do not affect tax liability accruing before January 1, 2012
- All liability before that date remains the same (as if the Act had not been enacted)

Effects of Non-Compliance

- If the PURCHASER uses an item for a non-exempt purpose, then, the Registration Number will be revoked
- A person who fails to obtain a Registration Number (but is eligible for one) must pay the tax and apply for a refund

Practical Affects of the Law

- **As sellers of agricultural products, compliance with the new law is required by January 1, 2012**
- **To ensure compliance, all customers claiming Texas sales tax exemption as commercial farmers, ranchers, or timber producers MUST have a Registration Number issued by the State of Texas on all exemption certificate forms**

Practical Affects of the Law

- **SELLERS must ensure that the person handling tax issues for the company carefully evaluates the exemption certificate for compliance**
- **SELLERS must verify with the State of Texas that all the information contained within the certificate is correct**

Practical Affects of the Law

- **New law requires the Comptroller to develop and operate an online system to enable **SELLERS** to search and verify the validity of the given Registration Number stated on an exemption certificate**
- **Use of the online database is not required, but may be helpful to ensure compliance**

That's All Folks!

