



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

December 7, 2005

Dear Taxpayer:

Please find enclosed the Department of Revenue's Guidelines for the Agricultural Burning Exemption. These guidelines pertain only to the agricultural burning exemption prior to the law change that became effective July 1, 2005. These guidelines give a clearer explanation of the requirements for determining whether equipment is used "more than half of the time" in a qualifying activity. They also explain how the requirement is measured, how the review period is established, and how the value of the equipment is determined.

The Department plans to incorporate the information contained in these guidelines into an Excise Tax Advisory in the near future.

For information on the guidelines pertaining to the agricultural burning exemption currently in effect, please visit our web site at <http://dor.wa.gov>.

Sincerely,

State of Washington
Department of Revenue

Enclosure



Washington Department of Revenue
Guidelines for the Agricultural Burning Exemption
 November 2005

Is there a single “bright-line” standard to distinguish between a qualifying activity and a non-qualifying activity such as soil preparation for planting?

To provide clearer guidelines for determining whether equipment is used “more than half of the time” in a qualifying activity:

The Department will consider post-harvest activities such as straw or residue removal, plowing, and discing to be qualifying activities subject to:

- The land was used to grow a cereal grain or field and turf grass grown for seed during the immediately preceding harvest cycle;
- If there is only one pass of tilling equipment between harvest and planting, the pass will be considered a qualifying activity.
- If there are multiple passes of tilling equipment, the passing of tilling equipment immediately preceding planting of a new crop will be considered non-qualifying soil preparation for planting;

The Department will accept that the first passing of tilling equipment after harvest takes more time than subsequent tilling with the same equipment. Thus in the case of a two discings of qualifying cropland between harvest and planting, presuming the same acreage each time, total use will satisfy the “more than half of the time” requirement of the statute.

Sample results of above:

Crop rotation	1st pass of tilling equipment	Intermediate passes (if any) of tilling equipment	Last pass of tilling equipment immediately preceding planting	Is the tilling equipment eligible for exemption?
Qualified Crop to Qualified Crop	Qualifies	Qualify	Does not qualify	Yes, even if no intermediate passes
Qualified Crop to Nonqualified Crop	Qualifies	Qualify	Does not qualify	Yes, even if no intermediate passes
Nonqualified Crop to Qualified Crop	Does not qualify	Do not qualify	Does not qualify	No

The Department will on a case by case basis consider other evidences provided by a farmer to determine whether a different threshold is appropriate.

No-till drills, which eliminate the need for tilling the soil, are eligible for the exemption if the use satisfies the exemption requirements.

In the case of a tractor used to pull tilling equipment, the same presumptions as described above will apply for purposes of determining whether the equipment is used “more than half of the time” in a qualifying activity. Time the tractor is used for other qualifying activities (e.g., pulling a trailer used to haul wheat straw) or non-qualifying activities (e.g., pulling a rod weeder) must also be included in the calculation.

How is the “more than half the time” requirement measured?

The statute provides that qualification for the exemption be measured in terms of “time.” Thus hours of use for qualifying and non-qualifying activities are to be used as the basis for determining if the requirements of the statute are satisfied. Absent specific information detailing the hours of use by each piece of equipment for each activity and for each type of cropland, the Department will consider alternative records, from which “time” can be projected with reasonable accuracy. These records could, for example, include production records such as bale counts, if hours of use can be reasonably determined from those records. The use of alternative information should be supported by some type of records such as crop records from farm service agencies or crop insurance records.

What review period is to be used to determine if “used more than half the time” requirement of the statute is satisfied?

The farmer must continue to use the eligible equipment during each calendar year to qualify and retain the exemption from use tax. If a particular piece of equipment was purchased or sold during a year so that it was not available for use during the entire calendar year, the farmer at his or her option may elect to determine eligibility using the portion of the year during which the equipment was owned or may use a twelve-month period beginning with the date of purchase of a equipment or ending with the date of sale of a equipment. Use tax is due on equipment that has not been “used more than half the time” in a qualifying manner and on which retail sales or use tax has not been paid.

A farmer may, at his or her option, elect to use a twelve-month period that coincides with a crop cycle to determine if equipment satisfies the “used more than half the time” requirement of the statute. If such a twelve-month period is used, it must be used for all equipment for which the exemption is claimed. The farmer may not change to a calendar year basis without first obtaining prior approval from the Department.

This approach is similar with that provided in WAC 458-20-17401, which explains RCW 82.12.0254’s exemption for motor vehicles and trailers used in substantial part for transporting persons or goods across Washington’s borders.

If it is determined that use tax is due, how will the value of used equipment be determined?

The value of a piece of machinery or equipment subject to use tax is its fair market value at the time of first use within the review period during which the exemption cannot be maintained. Because the farmer will not know until the close of the period whether the usage met the exemption requirements, use tax is due and should be reported at the end of the review period. The taxable value of the piece of machinery or equipment is the value at the time of first use within the review period.

The Department will accept independent publications containing values of comparable machinery and equipment if those values are generally accepted in the industry as accurately reflecting the value of used machinery and equipment. In the absence of such a value, the Department will accept a value using a straight-line depreciation method.

Is corn a cereal grain?

After consultation with the Departments of Ecology and Agriculture, the Department of Revenue determined that corn is a cereal that has been burned in the past and therefore would be a qualifying crop under the provisions of the statute. The Department will make no distinction for the type of corn (e.g., sweet corn vs. field corn).

If a taxpayer had previously paid sales or use tax on eligible equipment used to reduce field burning of corn, the Department will issue a refund. Any such claim must be documented and made within the statute of limitations provided by RCW 82.32.050. The claim should be sent to the local district office of the Department of Revenue. Please refer to <http://dor.wa.gov> for address information.