

WASHINGTON STATE DEPARTMENT OF REVENUE

SPECIAL NOTICE

For further information contact:
Telephone Information Center
1-800-647-7706 or (360) 486-2345

Alternate Formats (360) 486-2342
Teletype 1-800-451-7985

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Tax Incentives to Reduce Agricultural Burning

In the past, farmers have had limited contact with the Department of Revenue because farming and agricultural businesses are not generally required to register with the Department. Farming is also considered a business activity, and many farming and agricultural activities are exempt from the business and occupation (B&O) tax. For these reasons, many farmers may be unfamiliar with state tax laws. The purpose of this Special Notice is to provide information about the new sales/use tax exemptions and credit, and some laws pertaining to farming and farming activities.

The 2000 Legislature passed Engrossed Second Substitute House Bill (E2SHB) 1987, Chapter 40, Laws of 2000 providing tax exemptions and a credit to farmers who use structures and equipment as alternatives to field burning of cereal grains and field, and turf grass grown for seed. The effective date of this law is March 22, 2000.

Although certain farming activities are exempt from the B&O tax, the retail sales tax or use tax generally applies to equipment used in farming. Exemptions from the retail sales tax, use tax, and property tax are limited. E2SHB 1987 provides a sales tax exemption, use tax exemption, B&O tax credit, and a property tax exemption. It also places the responsibility on businesses taking advantage of the exemptions and credit to keep suitable records documenting their qualification for the exemptions and credit. The records must be available for audit by the Department. Failure to keep suitable records may result in the disallowance of the exemption or credit, as well as the payment of interest and penalties.

The exemptions and credits are only available to farmers and others who make it possible to reduce field burning or to reduce the air emissions resulting from such burning. This includes persons involved in the manufacturing or marketing of straw or straw-based products that result in the reduction of field burning or a decrease in air emissions.

The following exemptions and credit apply only to purchases made on or after March 22, 2000.

Sales/Use Tax Exemption

The retail sales tax/use tax exemption is available for these items:

- ◆ machinery and equipment;
- ◆ structures;

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- ◆ installing, constructing, repairing, cleaning, decorating, altering, or improving eligible structures or eligible machinery and equipment; and
- ◆ tangible personal property that becomes an ingredient or component of eligible structures or eligible machinery and equipment.

To qualify for the exemption the machinery, equipment or structures must be used more than half (50%) of the time for:

- ◆ Gathering, densifying, processing, handling, storing, transporting or incorporating straw or straw-based products that results in a reduction in field burning of cereal grains and field, and turf grass grown for seed; or
- ◆ Decreasing air emissions resulting from field burning of cereal grains and field, and turf grass grown for seed.

Machinery, Equipment and Structures

Machinery and equipment used to perform traditional farming activities do not qualify for the exemption unless it can be shown that the use of such equipment in performing these activities is a direct result of reducing air emissions or not burning the crop residue. Thus combines, tractors, harrows, disks, balers, etc., do not qualify unless you can demonstrate that the equipment is for use as a result of not burning fields or additional use of the equipment is required as a result of not burning. For example, spray equipment would qualify if, as a result of not burning, the field was required to be sprayed five times instead of twice. This meets the more than half (50%) requirement.

Qualifying machinery, equipment and structures must be directly involved with the processing, handling, storing, etc., of the straw. For example, a building used to store straw qualifies for the exemption, while a building used to store equipment does not.

Transportation equipment does not qualify for the exemption unless it is used more than 50% of the time to transport straw or straw-based products and the use results in a reduction in field burning.

Balers used on straw **and** hay, for example, qualify for exemption only if they are used more than 50% of the time to bale straw.

Repairs and repair parts on equipment used for qualifying purposes are exempt only when the repairs are performed or the parts are purchased on or after March 22, 2000.

Types of Crops that Qualify

The tax incentives are designed to encourage alternatives to field burning of cereal grains, field grass grown for seed and turf grass grown for seed.

Cereal grains include wheat, oats, barley and other grains grown in Washington, the fields are traditionally burned after harvest to eliminate straw, stubble or residue.

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Crops such as corn and alfalfa do not qualify for the exemption because they are not cereal grains and/or the fields of these crops have not traditionally been burned.

Examples of Activities to Reduce Field Burning and Air Emissions

The intent of the law is to provide the exemptions and credit not only for alternatives currently available, but also for those that may become available in the future. The alternatives fall under three basic categories:

- 1) Reduce Emissions from Burning—Burn less residue, burn fewer acres, burn more cleanly;
- 2) Alter Farming Practices—Crop rotation, alternate crops, till residue; and
- 3) Utilize Residue—Find new uses for straw.

Some of these methods do not require the use of machinery, equipment or structures. However, those that do, will be afforded the exemption. Cutting, baling, tilling, and storing straw are examples of activities that will reduce field burning. In addition, such activities as seeding directly through the straw or residue reduces field burning. Equipment used to perform these activities fall within the parameters of the exemption, when all other requirements are met. For example, plows or disks would qualify if used more than 50 % of the time to break up residue that exists as a result of not burning.

Record Keeping Requirements for Buyers

To use the sales tax exemption, the buyer must provide the seller with an exemption certificate to document the exempt nature of the transaction. A sample of the exemption certificate is provided.

The law requires that a person taking the exemption must also keep records necessary for the Department to verify eligibility. This places the burden on the purchaser to maintain records documenting that the equipment or structures are used more than 50% of the time on an eligible activity calculated on an annual basis.

The types of records to be maintained are not specified in law. The Department will look at purchase invoices, depreciation schedules, farming practices logs and other records kept to verify eligibility for this exemption.

Purchasers will be required to pay sales or use tax on purchases that do not qualify for the exemption or when records are inadequate in substantiating eligibility. Unlawful use of the exemption certificate may subject the purchaser to interest and penalties in addition to the tax.

Record Keeping Requirements for Sellers

The seller must take the certificate in good faith and retain it for five years. Sellers should also be aware that there is no comparable B&O tax exemption. Consequently, income from sales of eligible equipment and structures continues to be subject to B&O tax under the retailing classification.

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The agricultural burning tax incentive expires on January 1, 2006. Therefore, purchases made on or after January 1, 2006 are not exempt.

Business and Occupation (B&O) Tax Credit

Persons who are eligible for the sales/use tax exemption may also take a credit against their B&O tax liability. The credit is limited to fifty percent (50%) of the costs expended for constructing eligible structures or acquiring eligible machinery and equipment. Please note:

- ◆ No application is necessary. The credit is taken on the Combined Excise Tax Return.
- ◆ The credit may not exceed your B&O tax liability.
- ◆ You cannot carry this credit over to subsequent calendar years.
- ◆ The credit must be claimed by the due date of the last tax return for the calendar year when the payment is made.
- ◆ You must keep records to verify eligibility.
- ◆ This B&O tax credit expires on January 1, 2006.

Property Tax Exemption

Personal property, eligible for the sales/use tax exemption, is exempt from the property tax beginning with assessment year 2001 for taxes due in 2002. Items purchased prior to the effective date of this legislation, March 22, 2000, are not eligible for the personal property exemption. Qualified items purchased after March 22, 2000 are required to be listed with the county assessor by April 30, 2001 and by April 30 of each year thereafter. Proof of eligibility of the exemption must be included with the listing to the assessor and may be evidenced by providing a copy of the purchase invoice showing what was purchased and that sales tax was not imposed. The exemption will continue through assessment year 2005 for taxes collected in 2006.

Generally structures eligible for the sales and use tax exemption are considered real property, not personal property and are not exempt from property tax.

More Information

For more information about the tax exemptions and credit, contact the Department of Revenue's Telephone Information Center at 1-800-647-7706.

For information concerning field burning regulations, contact the Department of Ecology, Air Quality Program at (360) 407-6800.

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State of Washington
Department of Revenue

FARMERS' RETAIL SALES TAX EXEMPTION CERTIFICATE

Not to be used for purchases of feed, seed, seedlings, fertilizer, or spray materials (for these purchases, use a Resale Certificate)

Sellers who accept properly completed copies of this certificate are relieved of the responsibility to collect sales tax on the types of sales indicated. Certificates must be obtained at the time of the sale. Sellers must retain a copy of this certificate to document the exempt sale.

Seller Date

Street Address City State Zip Code

I, the undersigned buyer, certify that I am making an exempt purchase for the following reason:

CHECK APPLICABLE BOXES

1. Nonresident Farmer

Place of residence: _____ Proof of residence: _____

Equipment for use in a farming activity (include brand, model, and address of use)

2. Livestock for Breeding Purposes

Animal type: _____ Registered Breed Association: _____

Animal name: _____

3. Animal Pharmaceuticals

Animal pharmaceuticals (include description): _____

4. Poultry Farming (Eff. 9/20/01)

- a. Propane or natural gas used to heat structures used to house chickens.
- b. Bedding materials used to accumulate and facilitate the removal of chicken manure.

5. Reducing Agricultural Burning (This exemption expires January 1, 2006)

Items purchased: _____

The buyer certifies that the items listed above will be used **more than half (50%) of the time** for:

- Gathering, densifying, processing, handling, storing, transporting, or incorporating straw or straw-based products that results in a reduction in field burning of cereal grains and field and turf grass grown for seed; **or**
- Decreasing air emissions resulting from field burning of cereal grains and field and turf grass grown for seed.

The retail sales tax exemption is available for these items or services:

- Machinery and equipment,
- Structures,
- Installing, constructing, repairing, cleaning, decorating, altering, or improving eligible structures or eligible machinery and equipment,
- Tangible personal property that becomes an ingredient or component of eligible structures or eligible machinery and equipment.

6. Agricultural Employee Housing

Items purchased: _____

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6. Agricultural Employee Housing (continued)

The retail sales tax exemption is available for these items:

- Constructing, repairing, decorating, or improving of new or existing buildings or structures used as agricultural employee housing,
- Tangible personal property that becomes an ingredient or component of the buildings or other structures during the course of the construction, repairing, decorating, or improving.

Is the agricultural employee housing being built on agricultural land? Yes No

If yes, please provide parcel number: _____

➤ I, the undersigned buyer, understand that by completing and signing this certificate I am certifying that I qualify for the tax-exempt purchase(s) indicated above. I understand that I am required to keep records to verify eligibility for the exemption(s) and that I will be required to pay sales or use tax on purchases that do not qualify for the exemption(s) in addition to any applicable interest and penalties. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion per RCW 82.32.090.

Name of Buyer: _____ UBI No.: _____

Authorized Signature: _____ Date: _____

Title: _____

Seller must maintain a copy. Do not send to Department of Revenue.

INSTRUCTIONS

Buyers must ensure entitlement to the exemption before using this Certificate. For information regarding exemptions, contact Washington State Department of Revenue Taxpayer Information Center at (360)786-6100 or 1(800)647-7706 or visit the Department's web site at <http://dor.wa.gov>.

Line 1 applies to machinery, implements, repair parts and labor purchased in this state by a nonresident for use in conducting a farming activity outside the state. The equipment must be transported outside the state immediately upon purchase. **Seller must examine and record buyer's proof of residency.** See WAC 458-20-239 for acceptable proof of residency. Reference: RCW 82.08.0268 and WAC 458-20-239.

Line 2 applies to the purchase of livestock for breeding purposes. "Livestock" is defined in RCW 16.36.005. The animal must be registered in a nationally recognized breed association. Reference: RCW 82.08.0259 and WAC 458-20-122.

Line 3 applies to the purchase of animal pharmaceuticals by farmers for the purposes of administering to an animal raised for sale by the farmer. Animal pharmaceuticals must be approved by the United States Food and Drug Administration or the United States Department of Agriculture. Reference: Chapter 17, Laws of 2001, 2nd Special Session.

Line 4a applies to the purchase of propane or natural gas used to heat structures used to house chickens. The chickens must be raised by a farmer and sold as agricultural products. Reference: Chapter 25, Laws of 2001, 2nd Special Session.

Line 4b applies to the purchase of bedding materials used to accumulate and facilitate the removal of chicken manure. The chickens must be raised by a farmer and sold as agricultural products. "Bedding materials" means wood shavings, straw, sawdust, shredded paper and other similar materials. Reference: Chapter 25, Laws of 2001, 2nd Special Session.

Line 5 applies to the purchase of machinery and equipment and structures that are used more than half (50%) of the time to reduce field burning of cereal grains and field and turf grass grown for seed, or to decrease emissions from such burning. Reference: RCW 82.08.840.

Line 6 applies to the purchase by agricultural employers of materials and labor for use in constructing, repairing, decorating, or improving new or existing buildings or other structures that will be used to provide housing to the employer's agricultural employees. Reference: RCW 82.08.02745 and WAC 458-20-262.

To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 753-3217. Teletype (TTY) users may call (800) 451-7985. You may also access tax information on our Internet home page at <http://dor.wa.gov>.