



# Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JUNE 11, 2009

## Livestock Nutrient Management - Changes to Tax Exemptions

The 2009 Legislature passed Engrossed Substitute Senate Bill (ESSB) 6170, Chapter 469, Laws of 2009. Sections 601 and 602 of this bill modified the livestock nutrient management sales and use tax exemptions provided by RCW 82.08.890 and 82.12.890. The changes to these exemptions are effective July 1, 2009.

### Eligibility Requirements

To qualify for the exemptions a person must be:

- A licensed dairy whose dairy nutrient management plan has been certified as required under RCW 90.64;  
or
- An animal feeding operation (AFO) that possesses a state waste disposal permit issued under RCW 90.48;  
or
- An AFO that possesses:
  - A nutrient management plan approved by a conservation district as meeting natural resource conservation service field office and technical guide standards; **and**
  - Effective July 1, 2009, a sales tax exemption certificate for replacement parts and services for farm machinery and equipment issued by the Department of Revenue.

### Exempt Purchases

The livestock nutrient management sales and use tax exemptions apply to:

- Qualifying livestock nutrient management equipment as identified below.
- Repair and replacement parts for qualifying livestock nutrient management equipment.
- Labor and services rendered in respect to installing, repairing, cleaning, altering, or improving qualifying livestock nutrient management equipment.
- Labor and services rendered in respect to repairing, cleaning, altering, or improving qualifying livestock nutrient management facilities as identified below.
- Building materials and other tangible personal property that becomes an ingredient or component of qualifying livestock nutrient management facilities in the course of repairing, cleaning, altering, or improving of such facilities.

### Examples of Taxable Purchases

The livestock nutrient management sales and use tax exemptions do not apply to:

- Purchases made before a person meets the eligibility requirements outlined above.
- Equipment that is not "qualifying livestock nutrient management equipment" although it may be used to handle and treat livestock manure.
- The construction of any livestock nutrient management facility.
- The replacement of existing qualifying livestock nutrient management facilities.
- Building materials and other tangible personal property that become an ingredient or component of new or replacement qualifying livestock nutrient management facilities during the course of constructing the facilities.

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### **Qualifying livestock nutrient management equipment**

When exclusively used in the handling and treatment of livestock manure, only the following items are qualifying livestock nutrient management equipment:

- Aerators
- Agitators
- Augers
- Conveyors
- Gutter cleaners
- Hard-hose reel traveler irrigation system
- Lagoon and pond liners and floating covers
- Loaders
- Manure composting devices
- Manure spreaders
- Manure tank wagons
- Manure vacuum tanks
- Pipes
- Pitchforks
- Poultry house cleaners
- Poultry house flame sterilizers
- Poultry house washers
- Poultry litter saver machines
- Pumps
- Scrapers
- Separators
- Shovels
- Slurry injectors & hoses
- Wheelbarrows

An item that is not on this list is not qualifying livestock nutrient management equipment and does not qualify for the exemptions even if used exclusively to handle and treat livestock manure.

### **Qualifying Livestock Nutrient Management Facilities**

When used exclusively in the handling and treatment of livestock manure, only the following structures and facilities are qualifying livestock nutrient management facilities:

- Flush systems
- Lagoons
- Liquid livestock manure store structures, such as concrete tanks or glass-lined steel tanks
- Structures used solely for dry storage of manure, such as roofed stacking facilities

A structure or facility that is not on this list is not qualifying livestock nutrient management facilities and the exemptions for services and ingredients and components do not apply even if the structure or facility is exclusively used in the handling and treatment of livestock manure.

### **Definition of “handling and treatment of livestock manure”**

The bill defines “handling and treatment of livestock manure” to mean the activities of:

- Collecting, storing, moving, or transporting livestock manure;
- Separating livestock manure solids from liquids; or
- Applying livestock manure to the agricultural lands of an “eligible person” other than through the use of pivot or linear type traveling irrigation systems.

Applying livestock manure to the agricultural lands of a person who is not eligible for the livestock nutrient management exemptions does not constitute the handling and treatment of livestock manure for purposes of these exemptions. Thus, sales or use tax is due if a person eligible for the livestock nutrient management exemptions purchases a manure spreader and allows it to be used to spread manure over the fields of a neighboring landowner who is not eligible for these exemptions.

### **Exemption Certificate Requirements**

Before claiming the sales tax exemption, an eligible person must obtain a *Retail Sales Tax Exemption Certificate for Livestock Nutrient Management Equipment and Facilities* from the Department of Revenue. The application is available on the Department’s web site at <http://dor.wa.gov/>. When making an exempt purchase, the buyer must make a copy of the exemption certificate and provide it to the seller.

Effective July 1, 2009, an AFO whose nutrient management plan has been approved by a conservation district as meeting natural resource conservation service field office technical guide standards must also possess an *Exemption Certificate for Replacement Parts and/or Services for Farm Machinery and Equipment*. This exemption certificate is issued by the Department of Revenue to eligible farmers who have applied for the exemption certificate.

An AFO that does not qualify for the sales and use tax exemptions for replacement parts and services for farm machinery and equipment is not eligible for the livestock nutrient management exemptions even if the AFO's nutrient management plan has been approved by the conservation district. A Special Notice explaining the exemption for replacement parts and services for farm machinery and equipment, eligibility requirements, and application is available on the Department of Revenue's web site at <http://dor.wa.gov/>.

### **Record Keeping Requirements for Buyers**

A person claiming a livestock nutrient management exemption must keep records necessary for the Department of Revenue to verify eligibility. This places the burden on the buyer to maintain records documenting that the qualifying livestock nutrient management equipment or facilities to which the exemption relates is used exclusively to handle and treat livestock manure.

The Department will look at purchase invoices, depreciation schedules, farming practices, logs and other records kept to verify eligibility for these exemptions. The records must be available for audit by the Department. Unlawful use of the exemption certificate will result in an assessment of tax and additional interest, and may subject the buyer to penalties.

### **Record Keeping Requirements for Sellers**

A seller who makes exempt sales must receive from the buyer a copy of the *Retail Sales Tax Exemption Certificate for Livestock Nutrient Management Equipment and Facilities* issued by the Department of Revenue with an effective date of July 1, 2009, or later. Exemption certificates that have an effective date prior to July 1, 2009, are not valid for sales made after this date. The seller must keep the copy with the business records for five years after the date of the exempt sale.

Exemptions are reported on the seller's *Combined Excise Tax Return* under the retail sales tax classification and must be identified on the deduction detail page, under the retail sales tax heading, as "Retail Sales Tax Exempt Purchases by Farmers." As there is no comparable business and occupation (B&O) tax exemption, the gross proceeds of sales that qualify for the livestock nutrient management sales tax exemption are fully subject to B&O tax.

### **More Information**

For more information about the livestock nutrient management *sales and use tax exemptions*, contact the Department of Revenue at <http://dor.wa.gov> or 1-800-647-7706.

For information about livestock nutrient *management plans for dairies* certified under chapter 90.64 RCW and nutrient management plans approved by a conservation district, contact the local conservation district in your area. Contact information for local conservation districts is available on the Internet from the Washington State Conservation Commission at <http://www.scc.wa.gov> or the Washington Association of Conservation Districts at <http://www.wacd.org/>.

For information about *animal feeding operations and permits* issued under chapter 90.48 RCW, contact Jon Jennings with the Department of Ecology at (360) 407-6283.



# Application for Retail Sales Tax Exemption Certificate for Livestock Nutrient Management Equipment & Facilities

Unified Business Identifier (UBI) Tax Registration Number (if applicable) \_\_\_\_\_

Federal Employer Identification Number (FEIN) (if applicable) \_\_\_\_\_

Type of Entity:  Individual  Corporation  Sole Proprietor  Partnership  Other (Explain) \_\_\_\_\_

Applicant Name \_\_\_\_\_

Farm/Feeding Operation Name \_\_\_\_\_

**Farm/Feeding Operation Address** \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Mailing Address** (if different) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Phone Number ( ) \_\_\_\_\_ E-mail Address \_\_\_\_\_

I, the undersigned applicant, certify (check one):

- I am licensed to produce milk under chapter 15.36 RCW and have a certified dairy nutrient management plan.
  - My Milk Producer License number is: \_\_\_\_\_
  - Date Dairy Nutrient Management Plan approved: \_\_\_\_\_
- I own an animal feeding operation and have a permit issued under chapter 90.48 RCW
  - State Waste Discharge and/or National Pollutant Discharge Permit number: \_\_\_\_\_
  - Date State Waste Discharge and/or National Pollutant Discharge Permit issued: \_\_\_\_\_
- I own an animal feeding operation and have a nutrient management plan approved by a conservation district as meeting natural resource conservation service field office technical standards guidelines, and I possess an Exemption Certificate for Replacement Parts and/or Services for Farm Machinery and Equipment issued by the Department of Revenue under RCW 82.08.855.
  - Date Nutrient Management Plan approved: \_\_\_\_\_
  - Name of Approving Conservation District: \_\_\_\_\_
  - Exemption Certificate for Replacement Parts and/or Services for Farm Machinery and Equipment number: \_\_\_\_\_

I, the undersigned applicant, understand that the sales and use tax exemption is limited to purchases:

- Of qualifying equipment and services as explained on pages two and three of this application; and
- Made **after** a livestock nutrient management plan is certified under chapter 90.64 RCW, approved as part of the permit issued under chapter 90.48 RCW, or is approved by a conservation district as meeting natural resource conservation service field office technical guide standards.

|                           |             |
|---------------------------|-------------|
| Applicant Name _____      | Title _____ |
| Applicant Signature _____ | Date _____  |

*Send completed application to:*  
 Department of Revenue  
 Taxpayer Account Administration  
 Attn: Tax Examination & Assessments  
 PO Box 47476  
 Olympia, WA 98504-7476

**Keep a copy of this application for your records**