

(1) Purpose. This Rule addresses the sales and use tax exemptions in O.C.G.A. § 48-8-3.3 for agricultural production inputs, agricultural machinery and equipment, and energy used in agriculture.

(2) Definitions. For purposes of this Rule, the following definitions apply:

(a) “Agricultural machinery and equipment” means:

- 1.** Machinery and equipment used in agricultural operations, examples of which are provided in paragraph (5); or
- 2.** Machinery and equipment expressly included in O.C.G.A. § 48-8-3.3(a)(1)(B):
 - i.** Farm tractors and attachments to the tractors used in agricultural operations;
 - ii.** Any off-road vehicle used in agricultural operations;
 - iii.** Self-propelled fertilizer or chemical application equipment sold to persons engaged primarily in producing agricultural products for sale and that are used exclusively in tilling, planting, cultivating, and harvesting agricultural products;
 - iv.** Devices and containers used in the transport and shipment of agricultural products;
 - v.** Aircraft exclusively used for spraying agricultural crops;
 - vi.** Pecan sprayers, pecan shakers, and other equipment used in harvesting pecans sold to persons engaged in the growing, harvesting, and production of pecans;
 - vii.** Off-road equipment and related attachments that are sold to or used by persons engaged primarily in the growing or harvesting of timber and that are used exclusively in site preparation, planting, cultivating, or harvesting timber;
 - viii.** Grain bins and attachments to grain bins that are used in agricultural operations;
 - ix.** Trailers used to transport agricultural products;
 - x.** All-terrain vehicles and multi-passenger rough-terrain vehicles that are used in agricultural operations; and
 - xi.** Any repair, replacement, or component parts installed on agricultural machinery and equipment.

(b) “Agricultural operations” is used synonymously with the term “agricultural purposes” and, except as otherwise provided in this Rule, means the following activities:

- 1.** Raising, growing, harvesting, or storing of crops, including but not limited to soil preparation and crop production services, such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services;
- 2.** Feeding, breeding, or managing livestock, equine, or poultry;
- 3.** Producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including but not limited to chickens, hens, ratites, and turkeys;
- 4.** Producing plants, trees, fowl, equine, or other animals;
- 5.** Producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products;
- 6.** Processing poultry;
- 7.** Post-harvest services on crops with the intent of preparing them for market or further processing, including but not limited to crop cleaning, drying, shelling, fumigating, curing, sorting, grading, packing, ginning, canning, pickling and cooling.
- 8.** Slaughtering poultry and other animals; and
- 9.** Manufacturing dairy products.

(c) “Agricultural production inputs” means the following when used for agricultural purposes:

1. Seed;
2. Seedlings;
3. Plants grown from seed, cuttings, or liners;
4. Fertilizers;
5. Insecticides;
6. Livestock and poultry feeds, drugs, and instruments used for the administration of such drugs;
7. Fencing materials used for agricultural purposes;
8. Fungicides;
9. Rodenticides;
10. Herbicides;
11. Defoliant;
12. Soil fumigants;
13. Plant growth regulating chemicals;
14. Desiccants, including but not limited to shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay;
15. Feed for animals, including but not limited to livestock, fish, equine, hogs, or poultry;
16. Sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees;
17. Cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes;
18. Ice or other refrigerants, including but not limited to nitrogen, carbon dioxide, ammonia, and propylene glycol used in the processing for market or the chilling of agricultural products in storage facilities, rooms, compartments, or delivery trucks;
19. Materials, containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural products when the product is either sold in the containers, sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale of the product for resale; and
20. Containers, plastic, canvas, and other fabrics used in the care and raising of agricultural products or canvas used in covering feed bins, silos, greenhouses, and other similar storage structures.

(d) “Agricultural products” means items produced by agricultural operations for sale or processing.

(e) “Animals” for purposes of this Rule is synonymous with “livestock” and means living organisms that are commonly regarded as farm animals, organisms that produce tangible personal property for sale, and organisms that are processed, manufactured, or converted into articles of tangible personal property for sale. The term does not include living organisms that are commonly regarded as domestic pets or companion animals.

(f) “Aquaculture” means an operation or integrated series of operations in the growing of marine or freshwater organisms for sale. Aquaculture involves the cultivating of aquatic populations under controlled conditions, as contrasted with commercial fishing, where the conditions are not controlled.

(g) “Consumable supplies” means tangible personal property, other than machinery, equipment, agricultural production inputs, and energy, that is readily disposable, or is immediately consumed or expended during an agricultural operation.

(h) “Energy used in agriculture” means fuels used for agricultural purposes, other than fuels subject to “prepaid state tax” as defined in O.C.G.A. § 48-8-2.

(i) “Farm” means a parcel or tract of land or contiguous tracts or parcels of land, or, for aquaculture, an area of lake, river or sea, devoted primarily to growing or raising, and actively maintaining, plants and animals for agricultural purposes.

(j) “Fixtures” means tangible personal property that has been installed or attached to land or to any building thereon and that is intended to remain permanently in its place. A consideration for whether property is a fixture is whether its removal would cause significant damage to such property or to the real property to which it is attached. Fixtures are classified as real property. Examples of fixtures include but are not limited to plumbing, lighting fixtures, slabs, and foundations.

(k) “Local sales and use tax” means any sales or use tax that is levied and imposed in an area consisting of less than the entire state, however authorized.

(l) “Machinery and equipment” means any device or apparatus other than real property, agricultural production inputs, energy, and consumable supplies. The term “machinery and equipment” includes repair and replacement parts.

(m) “Motor vehicle” means every self-propelled vehicle designed for operation or required to be licensed for operation upon the public highways.

(n) “Qualified agriculture producer” means a person defined as such by the Georgia Department of Agriculture.

(o) “Real property” means land, any buildings thereon, and any fixtures attached thereto.

(p) “Repair or replacement part” means a part for any agricultural machinery or equipment. Repair or replacement parts must be used to maintain, repair, restore, install, or upgrade such machinery or equipment. Examples of repair and replacement parts may include but are not limited to oils, greases, hydraulic fluids, coolants, lubricants, and other interchangeable tooling.

(3) Scope of exemptions for agricultural production inputs, agricultural machinery and equipment, and energy used in agriculture: Activities that are not agricultural operations. Except as otherwise provided in this Rule, inputs, machinery, equipment, and energy used in the following activities do not qualify for exemption:

(a) Activities occurring after a finished product has been loaded in or on a truck or other vehicle for transport for sale;

(b) Research and development activities;

(c) Fruit and vegetable canning, pickling, and drying operations that occur outside the farm on which the fruits or vegetables are grown;

(d) Winery operations that occur outside the farm on which the fruit is grown to produce the wine;

(e) Dairy product manufacturing that occurs outside the farm on which the milk-producing animals are maintained;

(f) Manufacturing of dairy product substitutes that occurs outside the farm on which the dairy-substitute crop (e.g., soy) is grown;

(g) Non-poultry animal slaughtering that occurs outside the farm on which the animals are maintained prior to slaughter;

(h) Landscaping activities for recreation or beautification, such as the maintenance of lawns or golf courses;

(i) The operation of a sales facility;

(j) Subsistence farming, hobby farming, and activities that will generate less than \$2,500 in sales annually; and

(k) Administrative activities, including but not limited to sales promotion, general office work, credit and collection, purchasing, and clerical work.

(4) Exemption for agricultural production inputs. Sales of agricultural production inputs, as defined in this Rule, to qualified agriculture producers holding a Georgia Agriculture Tax Exemption (GATE) Certificate issued by the Georgia Department of Agriculture are exempt from state sales and use tax and all local sales and use tax.

(5) Exemption for agricultural machinery and equipment. Sales (including leases) of agricultural machinery and equipment, as defined in this Rule, to qualified agriculture producers holding a GATE Certificate are exempt from state sales and use tax and all local sales and use tax. The exemption includes machinery and equipment expressly listed in O.C.G.A. § 48-8-3.3 (a)(1)(B) and machinery and equipment used in agricultural operations.

(a) Machinery and equipment used in agricultural operations. Agricultural operations can differ significantly from one to another. Thus, when determining whether machinery or equipment is used in agricultural operations, the Department of Revenue may evaluate the facts and circumstances of each case.

1. Examples of machinery or equipment that are not used in agricultural operations at any time generally include but are not limited to:

- i.** Motor vehicles;
- ii.** Power lines or transformers that provide electricity to an agricultural operation;
- iii.** Real property, including but not limited to concrete slabs and foundations, and structures or fixtures used for ventilation, heating, cooling, illumination, communications, plumbing, or the personal comfort and convenience of employees;
- iv.** Administrative machinery or equipment, including computers, related computer peripherals, servers, copiers, telephones, facsimile machines, office furniture, office furnishings, office supplies such as paper and pencils, and educational materials used for non-agricultural functions, including but not limited to sales, marketing, research and development, accounting and payroll, and purchasing;
- v.** Machinery or equipment that is not operated under the control of the agriculture producer's employees or other persons under the agriculture producer's direction and control; and
- vi.** Living organisms of any kind, including but not limited to people, animals, and bacteria utilized in irrigation.

2. Except as otherwise provided in this Rule, machinery and equipment used in agricultural operations generally include but are not limited to machinery and equipment used:

- i.** In the production of poultry and eggs for sale, including but not limited to machinery and equipment used in the cleaning or maintenance of poultry houses and the surrounding premises;
- ii.** In the hatching and breeding of poultry and the breeding of livestock and equine;
- iii.** In the production, processing, and storage of fluid milk for sale;
- iv.** In the drying, ripening, cooking, further processing, or storage of agricultural products;
- v.** In the production of livestock or equine for sale;
- vi.** In the production of poultry, eggs, fluid milk, equine, or livestock for sale;
- vii.** For the purpose of harvesting agricultural products to be used on the farm by that producer as feed for poultry, equine, or livestock;
- viii.** In tilling the soil or in animal husbandry;
- ix.** Exclusively for irrigation of agricultural products, including but not limited to fruit, vegetable, and nut crops;
- x.** To cool agricultural products in storage facilities;

- xi.** To produce aquacultural products;
- xii.** To maintain, clean, repair, restore, install, or upgrade agricultural machinery or equipment;
- xiii.** To provide worker safety and to protect the quality of the agricultural product, including but not limited to safety machinery and equipment required by federal or state law, gloves, ear plugs, face masks, protective eyewear, hard hats or helmets, and breathing apparatuses, regardless of whether the items would otherwise be considered consumable supplies; and
- xiv.** In harvesting timber, including all off-road equipment and related attachments used in every forestry procedure starting with the severing of a tree from the ground until and including the point at which the tree or its parts in any form has been loaded in the field in or on a truck or other vehicle for transport to the place of use. Such off-road equipment includes but is not limited to skidders, feller bunchers, debarkers, delimiters, chip harvesters, tub-grinders, woods cutters, chippers of all types, loaders of all types, dozers, mid-motor graders, and the related attachments.

3. Primary purpose. Except as otherwise provided in this Rule, an item of machinery or equipment qualifies for exemption only if its primary purpose is for use in an agricultural operation. “Primary purpose” means the purpose for which an item of tangible personal property is used more than one-half of the total amount of time that the item is in use. Alternatively, instead of time, the purpose may be measured in terms of other applicable criteria such as the number of items produced. The Department of Revenue may consider any reasonable methodology for measuring the primary purpose of machinery or equipment for which the primary purpose is not readily identifiable.

(b) Parts withdrawn from inventory. Miscellaneous parts for which the ultimate use is unknown at the time of purchase are eligible for the exemption as components or repair or replacement parts. However, use tax must be accrued and remitted if parts are withdrawn from the inventory of parts and used for any purpose other than to maintain, repair, restore, install, or upgrade machinery or equipment that is used in the production of agriculture.

(6) Exemption for energy used in agriculture. Sales of energy used in agriculture, as defined in this Rule, to qualified agriculture producers holding a GATE Certificate are exempt from state sales and use tax and all local sales and use tax.

(a) Metered energy. In order to purchase metered energy used in agriculture without the payment of tax, the energy must be metered separately from energy used for non-agricultural purposes. Qualified agriculture producers must present to their energy providers the GATE certificate and the account numbers and service addresses of meters to which the exemption applies.

i. De minimis use exception. If a single meter supplies energy for agricultural purposes and energy for de minimis non-agricultural purposes, a GATE Certificate holder is permitted to purchase all of the energy supplied from the meter without the payment of tax, so long as that meter does not supply energy for a personal residence. De minimis use means use that represents ten (10) percent or less of the total amount of energy supplied by a single meter.

(b) Non-metered energy. Qualified agriculture producers holding the GATE Certificate are permitted to purchase non-metered energy, such as propane and wood, tax exempt. Producers, however, must accrue and remit use tax on any portion of the energy that is not used for agricultural purposes.

(c) Examples of energy used in agriculture. Energy used in agriculture includes but is not limited to:

- i. Off-road diesel, propane, butane, electricity, natural gas, wood, wood products, wood by-products and liquefied petroleum gas;
- ii. Fuel used in structures in which broilers, pullets, or other poultry are raised, in which swine are raised, in which dairy animals are raised or milked or where dairy products are stored on a farm, in which agricultural products are stored, and in which plants, seedlings, nursery stock, or floral products are raised primarily for the purpose of making sales of such plants, seedlings, nursery stock, or floral products for resale;
- iii. Fuel for the operation of an irrigation system which is used on a farm exclusively for the irrigation of agricultural products; and
- iv. Fuel used in the drying, cooking, or further processing of raw agricultural products.

(d) Examples of non-exempt energy.

- i. Energy used for non-agricultural purposes;
- ii. Gasoline, clear diesel, and aviation gasoline;
- iii. Liquefied petroleum gas and special fuel (including compressed natural gas) when used to propel a motor vehicle on the public highways;
- iv. Energy used for administrative activities; and
- v. Energy used in a personal residence.

(7) Certificates of Exemption. Department of Revenue Agricultural Certificate of Exemption (Form ST-A1) is not valid for purchases occurring on or after January 1, 2013.

(a) GATE Certificate. Any person making a sale or lease of agricultural production inputs, agricultural machinery or equipment, or energy used in agriculture must collect sales and use tax unless such person, in good faith, takes from the purchaser or lessee a Georgia Agriculture Tax Exemption (GATE) Certificate. Qualified agriculture producers may obtain a GATE Certificate from the Department of Agriculture. GATE Certificate holders must meet the requirements of this Rule to qualify for the exemptions in O.C.G.A. § 48-8-3.3.

(b) Refunds. When tax is remitted on the purchase or lease of exempt inputs, machinery, equipment, or energy, qualified agriculture producers holding a GATE Certificate may apply to the Department of Revenue for a refund pursuant to O.C.G.A. § 48-2-35. For purchases occurring on or after January 1, 2013, tax will not be refunded unless the purchaser held a GATE Certificate at the time of purchase.

(8) Non-transferability. Exemptions under this Rule are non-transferable.

(9) Manufacturers. Every person defined as a “dealer” in O.C.G.A. § 48-8-2 is required to file a sales and use tax registration for each place of business in this state. A dealer that performs both manufacturing and agricultural operations at a single place of business may avail itself of the exemptions under either O.C.G.A. § 48-8-3.2 or O.C.G.A. § 48-8-3.3, but not both, for that place of business in any one calendar year.

(10) Effective Date. This Rule shall be effective for transactions occurring on or after January 1, 2013.

Authority: O.C.G.A. §§ 48-2-12, 48-8-3.3. **Administrative History.** Original Rule was filed on June 30, 1965.

Amended: Filed January 13, 1975; effective February 2, 1975. **Amended:** F. Oct. 30, 2013; eff. Nov. 19, 2013.