

Nebraska Agricultural Machinery and Equipment Sales Tax Exemption

Overview

Farmers and ranchers are **not** exempt from sales or use tax on equipment, supplies, and services they use in the course of doing business. However, purchases and leases of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use taxes when purchased or leased for direct use in commercial agriculture.

Personal property tax is due on depreciable agricultural machinery and equipment regardless of whether or not sales or use tax was paid on the machinery or equipment.

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Terms

Agricultural Machinery and Equipment. Agricultural machinery and equipment is tangible personal property that is used **directly** in cultivating or harvesting a crop, raising or caring for animal life, or collecting or processing an agricultural product on the farm or ranch.

Commercial Agriculture. Commercial agriculture is the business of producing food products or other useful and valuable crops, or raising animal life. The crops or animal life may either be sold or used by the producer or grower to produce other products for sale.

- ❖ Commercial agriculture includes commercial production in greenhouses, nurseries, tree farms, sod farms, and feedlots.
- ❖ Commercial agriculture does not include storing products off the farm or in commercial elevators, or holding animal life in stockyards or sale barns.

Contractor. A contractor is any person who repairs property annexed to real estate, who annexes building materials and fixtures to real estate, or who arranges for the annexation.

Depreciable Agricultural Machinery and Equipment. Depreciable agricultural machinery and equipment means agricultural machinery and equipment which has a determinable life of longer than one year.

Sales of Depreciable Agricultural Machinery and Equipment

Sales of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use tax when purchased for direct use in commercial agriculture.

- ❖ **Example of direct use:** Equipment used to mow hay that the producer will feed to livestock or sell. (Sale of equipment is tax exempt.)
- ❖ **Example of non-qualifying use:** Equipment used to mow under fence lines. (Sale of equipment is taxable.)

All exempt sales of depreciable agricultural machinery and equipment **must** be supported by a [Nebraska Resale and Exempt Sale Certificate, Form 13, Section B](#).

The seller must keep each Form 13 with its books and records. The requirement to obtain a Form 13 applies even if the purchaser of the new or used depreciable agricultural machinery and equipment farms or ranches out-of-state. For examples of property that may qualify for this exemption, see the “Items that Qualify as Agricultural Machinery and Equipment” section below.

Note: Many types of machinery and equipment typically owned by those involved in farming and ranching operations do not qualify for this exemption. For examples of property that does not qualify for this exemption, see the “Items That Do Not Qualify as Agricultural Machinery and Equipment” section below.


Auction Sales

When an auctioneer makes a sale of depreciable agricultural machinery or equipment, the auctioneer must charge sales tax unless the buyer gives the auctioneer a properly completed Form 13. For more information on sales made by auctioneers, please review the [Nebraska Sales and Use Tax for Auction Sales Information Guide](#).

Leases or Rentals of Depreciable Agricultural Machinery and Equipment

Leases of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use tax when leased for direct use in commercial agriculture.

- ❖ Capital leases of depreciable agricultural machinery and equipment for periods of **more than one year** must be supported by a [Form 13](#), Section B. The capital lease allows the lessee to depreciate the machinery or equipment for federal income tax purposes. In most cases the lessee is responsible for personal property tax on the net book value of the property.

 REVENUE	<h3>Nebraska Resale or Exempt Sale Certificate</h3> <p>for Sales Tax Exemption</p>	Form 13		
<p>I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:</p> <p>Check One <input type="checkbox"/> Purchase for Resale (Complete Section A.) <input checked="" type="checkbox"/> Exempt Purchase (Complete Section B.) <input type="checkbox"/> Contractor (Complete Section C.)</p>				
Section B—Nebraska Exempt Sale Certificate				
<p>The basis for this exemption is exemption category <u>02</u> (insert appropriate number for the category of exemption described on the reverse side).</p>				
<p>If exemption category 2 or 5 is claimed, enter the following information:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <p>Description of Items Purchased <u>Farm machinery</u></p> </td> <td style="width: 50%; border: none;"> <p>Intended Use of Items Purchased <u>Commercial agricultural</u></p> </td> </tr> </table>			<p>Description of Items Purchased <u>Farm machinery</u></p>	<p>Intended Use of Items Purchased <u>Commercial agricultural</u></p>
<p>Description of Items Purchased <u>Farm machinery</u></p>	<p>Intended Use of Items Purchased <u>Commercial agricultural</u></p>			
sign here	<p><u>James Someone</u> Authorized Signature</p>	<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; text-align: center; border-bottom: 1px solid black;"> <p><u>Owner</u> Title</p> </td> <td style="width: 40%; text-align: center; border-bottom: 1px solid black;"> <p><u>10/1/2014</u> Date</p> </td> </tr> </table>	<p><u>Owner</u> Title</p>	<p><u>10/1/2014</u> Date</p>
<p><u>Owner</u> Title</p>	<p><u>10/1/2014</u> Date</p>			

- ❖ Operating leases of depreciable agricultural machinery and equipment for periods of **one year or less** must be supported by Form 13, Section B. In most cases the lessor is responsible for reporting the net book value for personal property tax purposes.

Lessors must keep the completed Form 13 with their books and records.

Repair and Replacement Parts for Agricultural Machinery and Equipment Purchased Before October 1, 2014

Purchases of repair and replacement parts for depreciable agricultural machinery and equipment used directly in commercial agriculture, that occur before October 1, 2014, are not exempt from sales and use taxes. The seller is required to collect and remit the sales tax on sales of repair and replacement parts. Repair and replacement parts include items which would be found on a parts list for a given piece of machinery or equipment including an irrigation system, or the generic equivalent of a listed part. Examples of repair or replacement parts include: antifreeze, batteries, spark plugs, tires, and motors. The purchaser cannot use a [Form 13](#) to make a tax exempt purchase of repair or replacement parts prior to October 1, 2014.

For purchases of repair and replacement parts occurring before October 1, 2014, the purchaser may apply for a refund of the sales tax paid on **depreciable** repair and replacement parts for agricultural machinery and equipment that is directly used in commercial agriculture. The claim for refund, [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#), must be filed within three years after the date of purchase.

As a general rule, repair and replacement parts are depreciable if they will appreciably prolong the life of the property, arrest its deterioration, or increase its value or usefulness, and are ordinarily capital expenditures for which a deduction is allowed only through the depreciation/cost recovery allowance. However, incidental repairs that merely keep the property in an ordinary operating or usable condition are deductible as current expenses, and the sales tax paid for these parts is not refundable.

Repair and Replacement Parts for Agricultural Machinery and Equipment Purchased On or After October 1, 2014

Purchases of repair and replacement parts used to repair agricultural machinery and equipment used directly in commercial agriculture, that occur on or after October 1, 2014, are exempt from sales and use taxes unless sold to an Option 2 or Option 3 contractor. For contractors, see the “Contractors, Including Well Drillers” section. The agricultural machinery and equipment does not have to be depreciable in order for the purchase of the repair or replacement parts to be exempt from sales or use tax. The seller is required to obtain a properly completed Form 13, Section B, from the purchaser or collect and remit the sales tax on sales of repair and replacement parts.

Repair and replacement parts include items which would be found on a parts list for a given piece of machinery or equipment or the generic equivalent of a listed part.

Repair Labor on Agricultural Machinery and Equipment

Repair labor on agricultural machinery and equipment is sales tax exempt.

Example 1. A farmer hires a local farmers’ cooperative to replace a tractor tire in the field on or after October 1, 2014.

Taxability of the transaction

Tractor tire	Tax Exempt
Labor	Tax Exempt
Shop supplies	Tax Exempt
Mileage	Tax Exempt

The amount billed is not taxable provided the seller receives a properly completed Form 13, Section B, from the purchaser.

Purchases by Farmers' Cooperatives

A farmers' cooperative may purchase or lease depreciable agricultural machinery and equipment sales tax exempt when the agricultural machinery and equipment will be used by the cooperative directly in commercial agriculture (for example, a rogorator used by the cooperative to apply fertilizer on a farmer's crops, or a combine operated by the cooperative in harvesting a farmer's grain).

Other machinery and equipment purchased by a farmers' cooperative are taxable (for example, grain augers that move grain at the co-op, all motor vehicles, and any trailer or semitrailer used to transport seed or chemicals to a farmer's property).

Purchases by Agricultural Service Providers

A custom harvester, custom applicator, or crop duster may purchase or lease depreciable agricultural machinery and equipment sales tax exempt when the machinery or equipment will be used directly in commercial agriculture (for example, crop dusting airplanes, combines, and fertilizer application equipment).

Improvements to Real Estate and Annexed Equipment

An improvement to real estate is considered real property and does not qualify for the agricultural machinery and equipment exemption.

Improvements to real estate include, but are not limited to:

- ❖ Buildings;
- ❖ Field drain tile;
- ❖ Grain bins;
- ❖ Property attached to a building that supports, enhances, or adds to the use of the building (central air conditioning, heating system, common lighting, and plumbing); and
- ❖ Well casings, sand and gravel, concrete, bentonite, and electrical panels.

Equipment Annexed to an Improvement to Real Estate That Does Not Become Real Property

Equipment annexed to real estate or an improvement to real estate for the **purpose** of carrying on a trade or business rather than to improve the real estate itself, is not considered an improvement to real estate. This type of equipment may qualify for the agricultural machinery and equipment exemption. Examples include grain drying equipment attached to a grain bin, and automatic feeding systems for animal life.

Beginning October 1, 2014, repair or replacement parts for this equipment are exempt from sales and use taxes unless purchased by an Option 2 or Option 3 contractor. For additional information, see the "Repair and Replacement Parts for Agricultural Machinery and Equipment Purchased On or After October 1, 2014," and "Repair Labor on Agricultural Machinery and Equipment" sections above.

Contractors, Including Well Drillers

The taxation of materials and equipment annexed to real estate by a contractor or well driller is determined by its contractor option. Only contractors operating under Option 1 may take a [Form 13](#) from their customers to exempt sales of agricultural machinery and equipment that qualify for the sales tax exemption.

Contractors operating under Option 2 or Option 3 are the consumers of all materials and equipment annexed to real estate or an improvement to real estate. In addition, Option 2 and Option 3 contractors are the consumers of all repair and replacement parts used to repair equipment annexed to real estate and equipment annexed to an improvement to real estate. They cannot accept a Form 13 from the farmer or rancher for the materials and equipment they annex and must pay sales tax or report use tax on their cost of any annexed equipment.

Additional information relating to the various contractor options is available in the [Nebraska Taxation of Contractors General Information Guide](#), and the [Nebraska Well Drilling and Irrigation Industry Information Guide](#).

Example 2. A farmer purchases grain storage bins with conditioning and grain-handling equipment from an Option 1 contractor. Some of the grain-handling equipment qualifies for the agricultural machinery and equipment exemption.

Example 2 (cont.)

Taxable	Tax Exempt
Electrical control boxes	Auger systems
Grain bins	Bin sweeps
Ladders and catwalks	Contractor labor
Roof ventilation systems	Fans and heaters
	Slotted floors
	Stirrator

Warranties and Maintenance Agreements

Sales of warranties and maintenance agreements covering agricultural machinery and equipment used directly in commercial agriculture are not subject to sales tax. Any repair and replacement parts furnished under the terms of the agreement are not taxable. In addition, labor charges for repairing agricultural machinery and equipment used in commercial agriculture are not taxable.

Persons Not Engaged in Commercial Agriculture

Sales of machinery and equipment to persons not engaged in the business of commercial agriculture are taxable. Persons not “engaged in commercial agriculture” include, but are not limited to:

- ❖ Home gardeners who do not sell their produce for the purpose of making a profit;
- ❖ Lessors whose land is only used for pleasure, hunting, or fishing;
- ❖ Participants in governmental programs that prohibit land from being used in commercial production when all the participant’s land is enrolled in the program; and
- ❖ Veterinarians.

Improperly Issuing a Form 13

Any purchaser who gives a [Form 13](#) to a retailer for any purchase that is not exempt from sales and use taxes may be assessed a penalty of \$100 or ten times the tax, whichever is greater. If a Form 13 was improperly issued or used by a purchaser, the purchaser must remit Nebraska and applicable local use tax directly to the Department by filing a [Nebraska and Local Business Use Tax Return, Form 2](#), or a [Nebraska and Local Individual Use Tax Return, Form 3](#).

The Department is committed to the fair administration of the tax laws of Nebraska. If someone is fraudulently using the Form 13, it is illegal. You can [report tax fraud](#) by contacting the Department by email, phone, or mail.

Personal Property Tax

Personal property tax returns must be filed with the county assessor on depreciable agricultural machinery and equipment even if sales tax was paid to the retailer when purchased. For additional information on personal property tax, see [Property Assessment Division’s website](#). If sales tax was paid on property qualifying for the sales tax exemption, the purchaser may apply for a refund by filing a [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#).

Equipment or Supply Items Purchased Outside Nebraska

Equipment that is not eligible for the exemption and supply items that were purchased outside Nebraska may be subject to Nebraska use tax when brought into the state.

Use tax must be paid only if the state and/or local sales tax was not paid at the time of purchase. In Nebraska, the use tax is imposed at the same rate and on the same transactions as the sales tax. In addition, if the local sales tax is not properly paid on the original purchase, the local use tax is owed.

For more information on use tax, please see the [Nebraska Consumer’s Use Tax Information Guide](#).

Items That Qualify as Agricultural Machinery and Equipment

The following property is exempt from tax if it is depreciable agricultural machinery and equipment used directly in commercial agriculture. The following list includes typical examples of qualifying agricultural machinery or equipment.

Machinery and Equipment Used in Cultivating or Harvesting Crops or Other Agricultural Products on the Farm or Ranch

Accessories attached to farm tractor	Hay mowers
ATVs (used to fertilize crops, apply weed control on crops, and haul harvested crops)	Hay rakes
Bale movers	Hillers
Combines	Planters
Corn heads or other crop head equipment	Plows
Cultivators	Portable grain augers
Discs	Portable grain dryers
Fertilizer spreaders, caddies, and applicators	Rotary cutters/shredders
Frost protection fans	Tractor tool bars
Grain-drying equipment – moves or dries the grain (limited to heaters, fan assemblies, augers, perforated floors, and stirrators)	Tractors – and accessories - excluding any current tractor model defined in § 2-2701.01 not permitted for sale in Nebraska under §§ 2-2701 to 2-2711
Grain spreaders	Tractor duals
Harrows	Tractor weights
Hay balers	Trailers – only if not licensable
Hay loaders	UTVs (used to fertilize crops, apply weed control on crops, and haul harvested crops)

Machinery and Equipment Used to Raise or Care for Animal Life or Livestock

Aquaculture equipment for raising fish	Hog equipment used for gestation barn
ATVs (used to herd or feed livestock)	Hog slats or gang slats (concrete), wing dividers, and hog building equipment
Automatic feeders	Loaders
Bee boxes	Loading chutes
Earth-moving equipment used to clean feedlots	Manure-handling equipment
Fans, heaters, and shutters (portable, for hog confinement)	Milking equipment and separators
Farrowing crates, pens, and stations	Milk storage equipment
Feed boxes	Portable sweep pens
Feed wagons	Stock water tanks/troughs
Fish production equipment, including feeding and seining equipment	Working horses
Gestation crates	UTVs (used to herd or feed livestock)

Irrigation Equipment

Center pivots, including the above or below ground pipe from the well to the center pivot and electrical wire from the electric panel at the well to the center pivot	Irrigation well equipment, including pumps, pipe, column tube shafts, oil tube shafts, oil assemblies, heads, couplers, air valves, air valve faucet fittings, pressure gauges, swing check valves, gear heads, flow meters, shafts and covers, electric motors, gas and diesel engines, and electrical wire from the electrical panel to the motor
Center pivot irrigation bridges	
Center pivot track fillers – track closers to fill ruts created by center pivot system	

Vehicles

Crop-dusting airplanes	Rogators
Floaters	Terragators

Miscellaneous

Global Positioning Systems (GPS) – only the portion that attaches to agricultural machinery and equipment	weigh livestock, or attached to a feed wagon to weigh feed which is distributed for livestock)
Scales (used on the farm for a feed grinder, used to	Tree spades
	Windmills

Items That Do Not Qualify as Agricultural Machinery and Equipment

The following list contains examples of items that do not qualify as agricultural machinery and equipment.

Acetylene torches	Nurse tanks (used to fill tanks that spray the fields)
Air compressors	Office equipment, including computers
Antique farm equipment	Power or pressure washers
ATVs (used for entertainment or transportation, to check on livestock, crops, irrigation systems, or fencing, or to take soil samples)	Rebar (used in concrete to make banks, etc.)
Baseline GPS (receivers on tractors sold as one unit, individual items not priced)	Rentals of equipment, like a Ditchwitch
Chains of any kind	Scales, including scales to weigh trucks
Crawlers (used to clean out waterways and vegetation)	Seed tender trailers
Ear tags regardless of whether attached or implanted into the ear of the animal	Semen laboratory equipment, including any semen harvesting and processing equipment
Earth-moving equipment	Snowblowers
Equipment used to dehydrate and pelletize alfalfa	Solar panels for irrigation
Equipment used to install fencing or clear a field	Structures, including those used for storage
Excavators	Tagging guns and branding irons
Finishing mowers	Tanks (storage or transfer)
Fork lifts	Tanks (used to store oxygen or acetylene)
Fuel tanks and fuel trailers of any kind	Tarps
Ground moisture sensor system	Tires for equipment other than for agricultural machinery and equipment
Header trailers	Tools, including chain saws, post hole diggers, welders, and generators
Hoists	Trailers (licensable)
Hose reel assemblies	Two-way radios (GR 300 Repeaters)
Iron (used in construction of gestation stalls for hog equipment)	UTVs (used for entertainment or transportation, to check on livestock, crops, irrigation systems, or fencing, or to take soil samples)
Lawn mowers and lawn tractors	Weigh wagons (used to weigh one acre of grain to determine the total amount for the entire acreage)
Mobile telephones	Well-drilling equipment
Motor vehicles	

Improvements to Real Estate Do Not Qualify as Agricultural Machinery and Equipment

The following list includes examples of improvements to real estate that do not qualify as agricultural machinery and equipment.

Bridges (other than center pivot irrigation bridges)	Grain bin components, including catwalks, concrete, ladders, and vents
Buildings	Fences, including fencing materials used to build fences, gates, or panels
Building components, including air inlets, curtains for hog confinement, electrical equipment, electrical wire, fans, and shutters	Pond liners
Culverts	Portable sheds and huts for calves, hay, and hogs
Grain bag storage units that are enclosed within a roof and walls	Water well components, including casing, concrete, and gravel
Grain bins	

Resource list

Information Guides

- ❖ [Auction Sales](#)
- ❖ [Governmental Entities](#)
- ❖ [Well Drillers and Irrigation Industry](#)

Nebraska Sales and Use Tax Regulations

- ❖ [Reg-1-012, Exemptions](#)
- ❖ [Reg-1-014, Exempt Sale Certificate](#)
- ❖ [Reg-1-017, Contractors](#)
- ❖ [Reg-1-074, Warranties and Guarantees](#)
- ❖ [Reg-1-094, Agricultural Machinery and Equipment Refund](#)

Forms

- ❖ [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#)
- ❖ [Nebraska Resale or Exempt Sale Certificate, Form 13](#)

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