



FYI Sales 75 Farm Equipment Exemption

GENERAL INFORMATION

Effective July 1, 1999, and as modified effective July 1, 2000, and again on July 1, 2001 a sales tax exemption is provided for certain qualifying farm, dairy and ranch equipment and shipping aids. [§39-26-716, C.R.S.] **This exemption applies to state sales and use tax only.**

Colorado sales tax exempts many non-registered farm vehicles, towed equipment, trailers, and the attachments to these vehicles, irrigation equipment, dairy equipment, aircraft used in crop dusting, and repair and maintenance parts for these exempt items. The statute also exempts farm use of bailing wire, binders twine, surface wrap, pallets and crates.

Shipping pallets, aids and crates are exempt when used in the transfer or shipping of agricultural products.

FARM EQUIPMENT

While the broad term "farm equipment" is used in the exemption statute, **only non-registered vehicles, trailers and towables are included as exempt.** The exemption law defines farm equipment to be farm tractors and implements of husbandry as defined in motor vehicle statutes. If the farm vehicle is registered with the county motor vehicle office, then it does not qualify for the exemption.

"Farm tractor" means every **motor vehicle** which is designed and used as a farm implement. "Implement of husbandry" means every **vehicle** that is designed, adapted or used for agricultural purposes. [§42-1-102(33) and 42-1-102(44) C.R.S.] Thus, other than irrigation equipment, no fixed equipment is exempt, regardless of how movable or how often it is moved. Where plants, crops or livestock are brought to the equipment, the equipment remains taxable.

Vehicles taken into fields, corrals, etc., and moved about on the land to perform work with plants, crops or livestock are the items considered for exemption, with the other restrictions as noted below. Any vehicle licensed for highway use is disqualified.

The purchased or leased property must be used directly and primarily on a farm, ranch or at a "livestock production facility." It cannot be used incidentally for agricultural use, nor can it be used for janitorial, building maintenance, office, sales, distribution (even of farm products), research or transportation use.

A "livestock production facility" means any structure used predominantly for the housing, containing, sheltering, or feeding of livestock, including, without limitation, barns, corrals, feedlots, and swine houses. [§39-26-102(5.7) C.R.S.]

NOTE: Materials to construct barns, corrals, feedlots, etc., are not themselves exempt from taxation.

The activities qualifying for exemption are agricultural, viticultural, fruit, vegetable, milk, honey, poultry, egg and livestock production. Livestock means cattle, horses, mules, burros, sheep, lambs, poultry, swine, ostrich, llama, alpaca and goats or other animals raised for food, fiber or hide production, and alternative livestock under §35-41.5-102, C.R.S. but not pet animals as defined in §35-80-102(10) C.R.S.

An "agricultural commodity" means any agricultural commodity as defined in §35-28-104(1) C.R.S. except that, for purposes of this sales tax exemption, "agricultural commodity" shall also include sugar beets, timber, and timber products, oats, malting barley, barley, hops, rice milo, and other feed grain.

For farm equipment to be exempt, there must be primary use with plants or livestock produced for profit. It does not include, for example, home gardens with incidental sales, weed mowing, petting zoos, stables for pleasure riding, trail riding or pack use of horses, mules, llamas, polo horses, etc.

The purchase must be qualifying "farm equipment":

- Irrigation equipment having a per unit purchase price of at least \$1,000,
- Vehicles that qualify as implements of husbandry are those vehicles that are exempt from registration and are designed, adapted or used for agricultural purposes. An example would be a feed truck. Trailers designed to carry this equipment are also implements of husbandry,
- Attachments to exempt farm tractors or implements of husbandry that are machinery and equipment that aid or enhance the performance of the tractor or implement,
- Baling wire, binder twine, surface wrap, pallets and from July 1, 2001, crates.
- Aircraft designed or adapted to undertake agricultural applications, but the agricultural application use must be the primary use and not merely incidental to a farm operation (from July 1, 2000),
- Parts for maintenance and repair of the farm equipment that qualifies for exemption (from July 1, 2000).

Exempt equipment also includes hay balers, hay stacking equipment, combines, tillage and harvesting equipment, and other heavy movable farm equipment primarily used on farms and not on highways. Trailers specially designed to move such equipment on highways are considered component parts of such implements of husbandry. [§42-1-102(44), C.R.S.]

The purchase is not exempt if it is subject to registration as a vehicle under §42-3-103, C.R.S., or if its use is incidental to farm, ranch or livestock production facility operation.

Leased farm equipment that otherwise qualifies under the above restrictions must have a fair market value of at least \$1,000 in order to qualify for the exemption.

DAIRY EQUIPMENT

The exemption includes any item that is used at a farm dairy in connection with the production of raw milk, such as: milking claws, shells, inflators, pulsators, meters, cow identification systems, transponders, automatic takeoffs, piping, receiver jars, pumps, filter assemblies, milk containment tanks, cooling compressors, wash vats, clean in place assemblies, wash lines, wash control units, pulsator controls, milking system controls, programmable logical control systems, vacuum pumps, vacuum distribution tanks, backflush and related valves, rubber and similar hoses, rubber and similar gaskets, and any other similar or related item used in any dairy facility or farm dairy operation or in the production of raw milk, regardless of whether or not the item has become a fixture. It does NOT include equipment used at a commercial dairy in connection with the production of pasteurized, separated milk products for retail sale.

AFFIDAVIT INFORMATION

Buyers must sign and complete the entire Affidavit for Colorado Sales Tax Exemption for Farm Equipment (DR 0511), testifying to their qualification for exemption. **Vendors must retain the affidavit for three years from the date they file that month's sales tax return.** The department may request copies of such affidavits at any time during that three year period. Buyers remain liable for tax, interest and any applicable penalties if the purchase is used in a manner that does not qualify for the exemption.

LOCAL JURISDICTIONS

Cities and counties have the option of taxing farm or dairy equipment. To find out whether a governmental entity allows an exemption from local tax on farm equipment, refer to Colorado Sales/Use Tax Rates (DR 1002), published by the Department of Revenue. This publication, updated every January and July, lists tax rate information for Colorado cities and counties and also indicates which counties and statutory cities have a sales tax exemption for farm or dairy equipment. The publication may be obtained on the Department of Revenue Web site at www.TaxColorado.com

You must contact home-rule cities directly to find out if they exempt farm or dairy equipment from sales tax.

FARM EQUIPMENT EXEMPTION STATUTORY REFERENCES

§39-26-716, C.R.S.

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.