New Georgia Agricultural Exemption and Certificate of Exemption

Georgia Department of Revenue Clarifies New Agricultural Exemptions – Issues New Exemption Certificate

In an age of the Streamlined Sales and Use Tax Agreement, getting the proper exemption certificate is important, now more than ever. Retailers that think a sale is exempt from sales tax must obtain a properly completed exemption certificate from the purchaser within 90 days of the sale. Otherwise, the retailer faces the possibility of having to pay the uncollected sales tax. The liability can mount where the retailer or dealer has multiple sales over a long period.

The retailer/dealer must also be sure that it gets from the purchaser the correct exemption certificate. Georgia, like many states, has a bevy of different exemption certificates for different types of sales. One new exemption certificate replaces a long-standing certificate, Form ST-A1, which was used for agricultural purchases.

In 2012, the Georgia General Assembly passed H.B. 386, which included a new exemption for agricultural products. Found in O.C.G.A. § 48-8-3.3, the exemption covers agricultural inputs, energy, agricultural machinery and equipment. The purchaser must be a “qualified agricultural producer,” a term that is defined by the Georgia Department of Agriculture.

Effective January 1, 2013, Form ST-A1 is no longer valid for use in securing the exemption for property used in agricultural. Retailers can accept (and qualified agricultural producers must provide) the Georgia Department of Agriculture’s Georgia Agriculture Tax Exemption (GATE) certificate.

Qualified agricultural producers can obtain the certificate by application to the Department of Agriculture. The following machinery and equipment

qualify for the agricultural exemption as long as the items are used in a qualifying agricultural operation:

- Machinery/equipment used to clean and maintain poultry houses and the area surrounding poultry houses
- Hand tools and chainsaws
- Safety equipment for employees
- ATVs and UTVs
- Off-road equipment and related attachments
- Tractors and tractor attachments
- Non-motorized trailers used to transport agricultural products (livestock trailers and trailers used on public roads to transport finished products)

Repair and replacement parts for tractors and other farm machinery and equipment qualify for the exemption. Parts include tires, batteries, spark plugs, motor oils, greases, lubes and hydraulic fluids.

Inputs that qualify for exemption when used in a qualifying agricultural operation include:

- Fertilizers, insecticides and fungicides
- Seed, seedlings, plants grown from seed
- Animal feed
- Livestock and poultry fees, drugs and instruments used to administer drugs
- Fencing materials
- Cattle, hogs, sheep, equine, poultry, or bees for breeding purposes
- Ice and other refrigerants used to process for market or to chill agricultural products in storage facilities or in delivery trucks
- Packaging materials – containers, labels, sacks and bags

Energy, such as diesel fuel and electricity, that is used in a qualifying agricultural operation, may be exempt. Also, the purchaser must obtain a GATE Addendum tied to each meter that qualifies for the exemption (electricity must be metered separately from other electricity, and meters providing energy to a home does not qualify).

The following items do not qualify for the GATE exemption, even if purchased for a qualifying agricultural operation:

- Cars for on-road use
- Parts for on-road use cars
- Real property (power lines, electrical wiring, fixtures to real property, materials used by a contractor)
- Machinery/equipment used for administration of operations
- Consumables (disposable chemicals and detergents used to clean)
- Energy for on-road cars and aviation gasoline
- Energy used to power a home
- Energy used for administrative functions

The above list is not exhaustive and other rules apply to qualifying for the GATE certificate needed to buy items tax-free. For additional information, call Georgia Tax Attorney Richard Litwin at (678) 990-0600.