



Guideline

Sales Tax Farm Machinery & Farm Irrigation Equipment

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Effective October 1, 2005, the sale, lease or rental of new farm machinery and new farm machinery attachments are subject to the 3 percent gross receipts tax plus applicable local gross receipts tax. The sale, lease or rental of used farm machinery, used farm machinery attachments, and all farm machinery repair parts (except tires) used exclusively for agricultural purposes is exempt from state and local gross receipts tax.

To qualify for the *used* equipment exemption, the farm machinery or irrigation equipment must be used exclusively for agricultural purposes and must meet one of the following standards:

1. Has been subject to North Dakota sales gross receipts tax or sales tax on a previous sale;
2. Was originally purchased outside this state and previously owned by a farmer; or
3. Has been under lease or rental for three or more years.

If the farm machinery does not meet at least one of the three standards, the sale is subject to gross receipts tax at 3 percent.

Definition of Farm Machinery

To apply the correct tax rate, it is necessary to define *farm machinery*. Farm machinery includes any mechanical unit used directly and principally for the purpose of producing agricultural products. This includes machinery used for the preparation, seeding or cultivation of soil for growing agricultural crops and for harvesting of agricultural products, and includes certain machinery for dairy farms and livestock ranches.

The following is a representative list of farm machines and implements which qualify for the reduced gross receipts tax rate of 3 percent for new equipment and the exemption for used equipment:

Aeration equipment (portable)	Corn sheller	Feed wagon
Aeration duct – grain dryer (portable)	Creep feeder (w/wheels)	Fertilizer spreader
Applicator	Cultivator	Flax roller
Bale wagon	Disc	Forage harvester
Bin sweep (portable)	Drag	Forage hay pickup
Chaff saver	Drill transport	Grain bin (portable on wheels)
Chaff spreader	Farm wagons (non-highway use)	Grain cleaner (portable)
Combine	Feed grinder	Grain drill
Combine header	Feed mill (portable)	Grain dryer
Combine pickup	Feed rack (portable on wheels)	Grain heater
Corn picker	Feed treater	Grain vac
Corn planter	Feed mixer	Grain auger
Crop divider		Grain dryer fan (portable)
		Grain screener

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List of qualifying farm machines and implements continued:

Hammer mill	Potato digger	Squeeze chute (portable)
Harrow	Powered post drivers	Stack liner
Hay baler	Powered posthole diggers	Stack mover
Hay crusher	Rock picker	Stacker and hay cage
Hay mower	Roller mill	Stalk cutter
Head gate (portable)	Rotary cutter	Straw chopper
Header transport	Rotary hoe	Sunflower drum
Livestock scale (portable)	Rotary tiller	Sunflower pans
Loader	Seed cleaner	Sunflower header
Loading chutes (portable)	Seed treater	Swath roller
Manure pumps	Seeder	Swather
Milk coolers	Silage blower	Swather transport
Milking machines (portable)	Silage feeder	Tillage hitch
Milk unit washer	Silage loader	Torque limiter
Mixer-feeder wagon	Silage wagon	Tractor
Plow	Skidsteer	Windrower
Potato conveyors (portable)	Spreader	

Please Note: Any items listed in this section that are installed into real property are subject to sales tax at 5 percent of the installer's cost of the materials.

Please remember that the 3 percent gross receipts tax rate on new farm machines and the exemption for used farm machines only applies when the equipment is used exclusively for agricultural purposes. These same machines are subject to the general state sales tax rate of 5 percent when sold to contractors or other customers who will not use them exclusively for agricultural purposes. The 3 percent rate and the exemption are based on the selling price of the new farm machines being sold, less any allowable trade-in or discount.

Attachments and Accessories

Attachments are generally defined as items that are essential to the operation of farm machinery and that contribute directly to the operation of the equipment. New attachments are subject to gross receipts tax at 3 percent and used attachments are exempt from gross receipts tax. Items that should be regarded as farm machinery attachments include:

Tractor-mounted loader/scoop/grapple fork	Radar ground speed sensor
Tractor-mounted snow plow or snow blower	Agricultural global positioning system
Tractor or combine cab	Grain yield monitor
Combine head	Sprayer control
Combine pick-up	Electronic wind monitor
Planter monitoring system	After market lighting

Accessories, unlike attachments, are generally nonessential to the operation of the farm machinery and are subject to the 5 percent sales tax. Accessories include items such as radios, air conditioners, and similar items that are not necessary to the operation of the farm machinery.

Sales of Farm Supplies and Other Items That Do Not Qualify for the Special Reduced Rate.

Most farmers and ranchers purchase supplies, tools and many other items which may be used on a farm or ranch for agricultural purposes, but which are not *farm machinery* or *irrigation equipment* and, therefore, are subject to sales tax at 5 percent.

Farm supplies and other items that do not qualify for the special reduced rate include but are not limited to:

All-terrain vehicles	Gas powered engines (unless used as farm machinery repair part)	Power washers
Anti-freeze	Gate closers	Service tanks (for transport of fuel to field)
Bee cages	Generator units	Service tank pumps
Bird cannons	Grain box	Shop equipment
Branding irons	Grain drill filler (mounted on truck)	Shovels & spades
Brooder stoves	Grain storage bins	Silage bags
Cattle feeder	Hand rakes	Snow blowers (except tractor mounted)
Cattle oiler	Hand tools	Sprayers (high pressure-for cleaning equipment)
Chicken & duck pluckers	Horse trailers	Stock tank heaters
Corral panels	Lawn mowers	Stock tanks
Dehorner	Livestock fountains	Tarps/roll tarps
Ditchers and ditch digging equipment	Milk or cream cans	Tire chains
Dockers	Mineral feeders	Tire changers
Fans (ventilating or exhaust)	Motor oil, grease, lubric.	Trailer jacks
Feeder panels	Paint	Truck box
Feeders or feed bunks	Pitch forks	Truck hoist
Fence posts	Portable chute	Truck racks
Fencing material	Portable corral	Twine
Fertilizer tanks (purchased by retailer)	Portable farrowing pens	Udder washer
Fountains	Portable generators	Waterers or water tank
Free stall partitions	Portable moisture testers	Water well heaters
Freon	Portable pens	
Garden tillers	Potato truck boxes	
Garden tractors		
Gasoline storage tanks		

Farm Machinery Repair Parts

All farm machinery repair parts are exempt from sales and gross receipts tax. Again, this exemption applies only when the farm machinery repair parts are for farm machinery used exclusively for agricultural purposes. Parts sold to contractors, livestock yards or other customers who will not use them for agricultural purposes are subject to sales tax at 5 percent.

Farm machinery repair parts include any durable goods (except tires) used to repair a qualifying farm machine. ***Durable goods do not include fluids, gases, oils, greases, lubricants, paints and waxes. Furthermore, because farm repair parts must be for qualifying farm machines, they do not include items like tools, lumber, twine, fencing material or storage tanks.***

There are a wide range of goods that can serve either as farm machinery repair parts or for other nonfarm machinery use. Examples of these items include batteries, spark plugs, hoses, fuses, chains and electrical wires. The intended use of the part will determine if the item is exempt from sales tax or taxed at 5 percent.

When parts are installed by the seller it is evident if the parts are used on qualifying farm machinery or if they are not. When the parts are installed on qualifying farm machinery, the parts are exempt from gross receipts tax. If the repairs are not installed on a qualifying farm machine, the parts are subject to sales tax at 5 percent.

When parts are sold over the counter (not installed) the intended use of the parts is not always clear. In these situations, the seller should use some discretion but should generally accept, in good faith, the **customer's** word as to what the part will be used for. When the purchaser intends to use the parts on a qualifying farm machine, the part is exempt from gross receipts tax. If the parts are for nonfarm machinery use, they are taxed at 5 percent.

Although retailers selling parts over the counter are required to use some discretion in assessing the exemption or the 5 percent tax, the nature of the business should help the retailer determine the correct tax rate. Farm implement dealers, welding shops and farm supply stores are generally considered to be in the farm repair part business and probably will find the bulk of their parts sales will be exempt from tax. Conversely, hardware stores, auto supply stores and service stations generally are not considered to be farm machinery part dealers and will probably find the bulk of their parts sales will be taxed at 5 percent. Retailers who generally deal in 5 percent sales may instead allow the exemption based on the request of their customer, but only if it seems reasonable to the retailer that the part will be used on a qualifying farm machine to replace an existing part.

Motor Vehicles

Motor vehicles, including trailers and semi-trailers, required to be titled and licensed for use on the streets and highways of North Dakota are subject to a Motor Vehicle Excise Tax at the rate of 5 percent. Repair or replacement parts for motor vehicles are subject to sales or use tax at the rate of 5 percent. All-terrain vehicles and trailers weighing more than 1500 lbs. also are subject to the 5 percent Motor Vehicle Excise Tax.

Repair parts for farm trucks, which are registered with the North Dakota Department of Transportation, used to transport farm commodities to or from a farm are taxed at 5 percent. Farm trucks do not qualify as farm equipment; therefore, repair parts for the farm trucks are not exempt from sales or gross receipts tax.

Used Farm Machinery

Trade-In Allowance - A trade-in of a used farm machine or implement is deducted from the selling price of any new implement or farm machine before applying gross receipts tax to the purchase. Used equipment accepted as a trade-in and subsequently sold by the implement dealer is exempt from gross receipts tax when sold if the farm machines and implements qualify as *farm machinery*. If the used trade-in equipment does not qualify as *farm machinery* it is taxed at 5 percent sales tax when sold.

When a farm machine is purchased as a replacement for machinery that was stolen or totally destroyed, a credit or trade-in credit is allowed in an amount equal to the compensation received for the loss from an insurance company. The purchaser must provide the seller with a notarized statement from the insurance company verifying that the original farm machine is a total loss and indicating the amount of compensation. The notarized statement must be retained by the seller to verify the amount of credit or trade-in credit allowed.

Exempt Sales

Wholesale - When an implement dealer sells implement parts as a wholesaler to a bona fide retailer for resale, the sale is not subject to sales or gross receipts tax. The implement dealer should obtain a signed certificate of resale from the retailer purchasing the goods for resale. The certificate of resale should contain the sales and use tax permit

number of the retailer and should certify that the retailer is buying for resale. Certificates of resale should be obtained from retailers at least once a year unless the supplier believes that a particular sale is for final use, then the supplier should obtain a certificate of resale for that particular sale.

Interstate Commerce Sales - When an implement dealer sells an implement or other equipment to a person in another state and, as part of that sale, delivers the item to a point outside of this state either in the dealer's own vehicle or by someone hired by the dealer, it is a sale in interstate commerce and is exempt from North Dakota sales or gross receipts tax. To substantiate an interstate commerce deduction, the implement dealer's records must show the dealer was obligated to and actually did deliver the implement from a point in North Dakota to a point outside of North Dakota.

Sales to Residents of Montana - Under a specific exemption in North Dakota Sales Tax Law, residents of Montana may purchase implements, equipment or any personal property in the State of North Dakota and actually take delivery in this state without paying North Dakota sales or gross receipts tax. To qualify for this exemption, the Montana resident must be in North Dakota to make a specific purchase and not as a tourist, the purchase must exceed \$50.00 in goods and the Montana resident must sign a certificate of purchase. The *Certificate of Purchase* is available on our web site or may be obtained upon request from the Office of State Tax Commissioner, Sales and Withholding Tax Section, 600 E. Boulevard Ave. Dept. 127, Bismarck, North Dakota 58505-0599 or e-mail salestax@state.nd.us.

By signing the *Certificate of Purchase* form, the purchaser is certifying he or she qualifies for the exemption and will not be bringing the property back into North Dakota for use.

Sales to Residents of Canada

North Dakota Sales and Gross Receipts Tax Law requires Canadian residents to pay North Dakota gross receipts tax on all purchases, however, the law also provides that they may apply for a refund of the tax paid if the following conditions are met:

- (1) The Canadian resident was in North Dakota to make a purchase and not as a tourist.
- (2) The goods will be removed from North Dakota within 30 days of purchase and permanently will be used outside North Dakota.
- (3) The Canadian resident applies in writing to the Tax Commissioner on a form prescribed by the Tax Commissioner.
- (4) Each individual qualifying purchase (involving one or more items) equals \$25.00 or more.
- (5) The refund is \$15.00 or more. (Qualifying purchases may be accumulated for periods not to exceed one calendar year to reach the \$15.00 limit.)

Rentals and Leases

Implement dealers frequently rent farm implements and other pieces of large farm machinery to their customers. Rental of such equipment is a retail sale under North Dakota Gross Receipts Tax Law and gross receipts tax must be collected on the rental fee. If the implement or machine being rented fits into the category of *farm machinery*, then gross receipts tax on the rentals should be charged at the 3 percent tax rate for new machinery. Used farm machinery, as defined previously, includes farm machinery that has been under lease or rental for three years or more, would be exempt from gross receipts tax. Until such time as farm machinery has been under lease or rental for a period of three years or more, the applicable tax rate on the lease or rental payment is 3 percent.

If the implement or equipment being rented does not fall into the category of farm machinery or farm irrigation equipment, the rental is subject to the 5 percent sales tax. Rentals to contractors and other customers for nonagricultural use are taxable at the general rate of 5 percent.

Installation into Real Property

Barn cleaners, milking systems, automatic feeding systems and irrigation systems which are installed and become part of real property are subject to 5 percent sales or use tax, payable by the contractor who does the installation. If a farmer or rancher contracts with a supplier or contractor to provide an automated system installed into buildings or land owned or rented by the farmer or rancher, the transaction is a construction contract and the contractor is subject to sales or use tax on the cost of the materials installed. The contractor is responsible for payment of the sales or use taxes at the general rate of 5 percent.

Use Tax

If an implement dealer removes an implement or other item of equipment from resale inventory and uses it for personal or business purposes, the dealer must pay use tax on the cost of that implement.

Irrigation Equipment

Most irrigation systems contain elements of tangible personal property and elements of real property. The personal property consists of equipment that actually applies the water to the irrigated area while the real property consists of equipment that transports water from its source and equipment which supplies power to the irrigation system. Only the equipment classified as personal property qualifies for the 3 percent gross receipts tax rate for new equipment or the exemption for used equipment; equipment installed into real property is subject to the 5 percent tax. The gross receipts from retail sales of *used* irrigation equipment are exempt from gross receipts tax.

Most sellers of irrigation systems also install the systems. In these cases, the equipment which remains personal property should be billed separately and is subject to the 3 percent gross receipts tax if the equipment is new or is exempt from tax if the equipment is used. Equipment installed into real property by the seller is subject to the 5 percent use tax. If the entire system is sold at retail (not installed) to an agricultural producer, all the equipment is subject to the 3 percent gross receipts tax if new or will be exempt if the equipment is used.

Sales of optional parts for an irrigation system are taxable at the 3 percent gross receipts tax rate on new parts or are exempt from the tax for used parts if these parts remain personal property after installation, and if the irrigation system is used solely for agricultural purposes. The term optional parts includes parts which are not necessary to make the irrigation system functional. Such parts include: remote pivot control panels, automatic reverse controls, automatic shutoffs, radio controls and similar devices.

Repair parts for irrigation systems do not qualify for the 3 percent gross receipts tax rate or the exemption. Instead, these parts are subject to tax at 5 percent. Labor charges for repair work are exempt from sales tax provided they are billed separately from the repair parts.

Local Option Taxes

New farm machinery and new farm irrigation equipment subject to the 3 percent state gross receipts tax are also subject to any applicable local gross receipts taxes unless the city or county ordinance specifically exempts these items from the local tax. Irrigation system repair parts are subject to 5 percent state tax and all applicable local gross receipts tax. Used farm machinery, farm machinery repair parts and used farm irrigation equipment are exempt from state sales and gross receipts tax and from city and county sales and gross receipts taxes. All cities and counties with a local tax are listed in the guideline titled *Local Option Taxes by Location*, which is available on our web site or may be obtained by contacting the Sales and Withholding Tax Section.