

Reg. § 1.9741(25)-1 Agricultural Machinery and Equipment Exemption

Sales of agricultural machinery and equipment for use and consumption ~~directly and exclusively~~ predominantly in the production for sale of tangible personal property on farms (including stock, dairy, poultry, fruit, and truck farms), orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale are exempt from the sales and use tax.

Reg. § 1.9741(25)-2 Definitions

For the purpose of this regulation:

- A. "Agriculture" means the science or act of producing crops, farm products and raising livestock. Agriculture does not include lumbering or the growing of trees for logging purposes. The cutting of trees, except for cutting of Christmas trees, is not considered agriculture.
- B. "Agricultural machinery or equipment" means machinery or equipment used in producing crops, obtaining dairy products, raising livestock, and in obtaining maple syrup for sale. It does not include supplies.
- C. "Machinery" means the assemblage of parts that transmit forces, motion and energy in a predetermined manner.
- D. "Equipment" means implements, capital in nature, ordinarily subject to depreciation, but not including supplies.
- E. Supplies are generally items of a non-depreciable, non-capital nature that are normally consumed within a year. Supplies include, but are not limited to, items such as brooms, brushes, buckets, shovels, and office materials such as ledger books and pens.
- F. Livestock includes cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry (including pheasant, chukar partridge, and coturnix quail), camelids and ratites, rabbits when raised for meat, cultured fish propagated by commercial fish farms and bees.
- G. "Farm" means an enterprise using land and improvements for agricultural and horticultural production for the sale of tangible personal property. Farms include, but are not limited to, enterprises that produce turf crops, forages and sod crops, grains and feed crops, maple syrup, dairy products, poultry and apiary products, livestock, fruits of all kinds including grapes, nuts and berries, vegetables, nursery, floral, ornamental and greenhouse products.

Farms do not include cooperatives and similar organizations that engage in marketing and related activities, commercial operations such as processing food or dairy products, cheese making, logging and lumbering, the operation of a stockyard or slaughter house, enterprises for the breeding or raising of dogs, cats and other pets, and birds, fish or any other animals that are intended for use in sporting or recreational activities such as hunting and fishing.

Reg. § 1.9741(25)-3 ~~Direct and Exclusive~~ Predominant Use

- A. For agricultural equipment and machinery to qualify as being used “~~directly and exclusively~~” “predominantly” in production for sale of tangible personal property on a farm, it must be used ~~solely for farm purposes except for isolated or occasional uses such as limited production for personal consumption.~~ seventy-five percent or more of the time in the production for sale of tangible personal property on farms. It shall be rebuttably presumed that uses are not isolated or occasional if they total more than four percent of the time the machinery or equipment is operated. The exemption status is dependent upon the actual use of such machinery and equipment; the machinery and equipment is not exempt solely on the basis that it is used on a farm.
- B. Tangible personal property that is incorporated into real property is not used in the production of farm products and so is not exempt. Materials used to construct barns, sheds, silos and permanent fences are not exempt as they are building materials, not machinery or equipment. Movable equipment is exempt if the item is not incorporated into real property and it is used for farm production. Examples of such equipment are: barn curtains and screens, adjustable headlocks, free-stall stations, calf gates, movable fence gates, portable or temporary calf housing, milking machines and temporary fencing systems.

Reg. § 1.9741(25)-4 ~~Examples of Direct and Exclusive~~ Use in Farm Production

The following uses are considered uses in the production for sale of tangible personal property on farms. If the machinery or equipment is used at least seventy-five percent of the time for any of these uses, or a combination of these uses, the machinery and equipment is exempt from tax. Machinery and equipment in the following categories are directly and exclusively used in an agricultural operation, and the purchase or use of such property is exempt from tax:

1. Machinery and equipment used to cause other property to become a constituent or component of a farm product; ~~or used to cause other property to be consumed by productive animals or to foster plant growth;~~ machinery and equipment used to till, plant, fertilize, foster plant growth or harvest; equipment used to feed and water livestock; and to administer medication to livestock, and machinery and equipment used to maintain sanitary conditions or health conditions in the immediate area of agricultural production;

2. Machinery and equipment used to collect, convey or transport property used in production to an agricultural production site or to transport the finished product to a storage site on the farm and machinery used to collect manure. ~~in some manner prior to the actual commencement of production or in some manner after production has terminated, including, but not limited to machinery and equipment used to collect, convey, or transport property prior to its use in the actual agricultural operation on site.~~
3. Machinery and equipment used to clean farm production equipment. ~~predominately used in maintaining facilities, including, but not limited to equipment used in general cleaning and maintenance of agricultural property, chain hoists, welding equipment, sprayers, and oilers;~~
4. Machinery and equipment used to test and inspect the agricultural product; ~~during the actual farm production cycle;~~
5. Machinery and equipment used in agriculture to handle and preserve agricultural products upon the premises, and to prevent or deter the destruction, injury or spoilage of agricultural products, livestock or plants. This category includes but is not limited to property such as automatic cattle oilers used to groom farm animals so as to preserve their health, manure gutter cleaners, refrigerating devices used upon the premises to cool raw milk or to preserve perishable vegetables or other agricultural products, but does not include items such as fences, silos, and barns;
6. Machinery and equipment used to extract or separate an agricultural product from livestock, the soil or plants, including but not limited to harvesters, combines, binders, forage blowers, milking equipment, egg collecting equipment, pickers and feed handling equipment;
7. Replacement parts used to replace worn parts upon exempt machinery and equipment including but not limited to motors, belts, screws, bolts, cutting edges, tractor batteries, tractor tires, and air filters or gears;
8. Machinery and equipment used to convert animal waste or other farm byproducts into energy when that energy is used for agricultural purposes, except for isolated or occasional uses not to exceed ~~four~~ twenty-five percent of total usage. Note, however, that machinery and equipment used to convert animal waste or other farm byproducts into energy for sale at retail may be exempt under the manufacturing exemption. See 32 V.S.A. § 9741(14); Reg. § 1.9741(14).

Reg. § 1.9741(25)-5 Examples of Uses of Machinery and Equipment Not in Use for Production of Tangible Property for Sale

The following uses are not uses in the production for sale of tangible personal property on farms. If the machinery or equipment is used more than twenty-five percent for the following uses, or a combination of these uses, the machinery and equipment is subject to tax. Machinery and equipment in the following categories are not directly and exclusively used in an agricultural operation, and the purchase or use of such property is subject to tax:

1. Machinery and equipment purchased or used by one engaged in agriculture for use in the construction, reconstruction, alteration, remodeling, servicing, repairing, maintenance, or improvement to real estate, even though the structure may house or otherwise contain equipment or other facilities used ~~directly and exclusively~~ in agriculture;
2. Machinery and equipment purchased or used for land reclamation, land clearing, landscaping, lawnmowing, snow removal and similar activities that are intended to improve or preserve real estate;
3. Machinery and equipment used in maintaining facilities including but not limited to general cleaning and maintenance of property not used in direct farm production, such as chain hoists and welding equipment.
4. Property used in managerial, marketing and sales or other non-operational activities including, but not limited to office furniture, supplies and equipment, textbooks and other educational materials, books and records, and all other property used in agricultural administration and management, and machinery and equipment used in advertising agricultural products for sale;
5. Property used in the exhibition of agricultural products or agricultural operations including, but not limited to blankets, halters, prods, leads, harnesses, dressings, ribbons, clippers and similar show or grooming and display equipment;
6. Property used to prevent or fight fires and equipment and supplies used for safety, accident prevention or first aid programs, even though such equipment or property is required by law;
7. Property used for the personal comfort or convenience of a person engaged in agriculture, or his or her family, employees, or business associates, such as beds, mattresses, blankets, tableware, stoves, refrigerators, and other equipment used in conjunction with the operation of a migrant labor camp, or facilities for agricultural employees;
8. Machinery and equipment used in making butter, sausage, canned goods, jellies, flour, juices, cheeses, ice cream and other like items. Note, however, that such machinery

and equipment may be exempt under the manufacturing exemption. *See* 32 V.S.A. § 9741(14); Reg. § 1.9741(14);