



Guideline

Gross Receipts Tax Farm Machinery & Farm Irrigation Equipment

Cory Fong
Tax Commissioner

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Farm Machinery Gross Receipts Tax

The sale, lease or rental of new farm machinery, new farm machinery attachments or new irrigation equipment are subject to a 3 percent gross receipts tax when sold exclusively for agricultural purposes. Local gross receipts taxes may also apply to the purchase. The sale, lease or rental of used farm machinery, used farm attachments or used irrigation equipment and the sale of farm machinery repair parts (except tires) and irrigation equipment repair parts used exclusively for agricultural purposes are exempt from state and local sales, use, and gross receipts taxes.

To qualify as *used*, 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 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 years or more.

If the farm machinery or irrigation equipment 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. Also included is machinery used by commercial applicators for custom contract work when the machinery is used exclusively for agricultural purposes.

Farm machinery does not include machinery that will be used for other than agricultural purposes. Tools, shop equipment, grain bins, feed bunks, fencing materials, twine, lumber, storage tanks and other general farm supplies and equipment are not farm machinery eligible for the reduced tax rate or exemption. Also, machinery sold to rural residents for nonagricultural purposes is not eligible for the reduced farm machinery rate or exemption.

The following is a representative list of farm machinery 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)	Bale wagon	Combine
Aeration duct – grain dryer (portable)	Bin sweep (portable)	Combine header
Applicator	Chaff saver	Combine pickup
	Chaff spreader	Corn picker

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North Dakota Office of State Tax Commissioner

600 E. Boulevard Ave., Dept. 127
Bismarck, ND 58505-0599

701.328.1246
TDD: 1.800.366.6888

salestax@nd.gov
www.nd.gov/tax

List of qualifying farm machines and implements continued:

Corn planter	Grain dryer fan (portable)	Rotary hoe
Crop divider	Grain screener	Rotary tiller
Corn sheller	Hammer mill	Seed cleaner
Creep feeder (w/wheels)	Harrow	Seed treater
Cultivator	Hay baler	Seeder
Disc	Hay crusher	Silage blower
Drag	Hay mower	Silage feeder
Drill transport	Head gate (portable)	Silage loader
Farm wagons (non-highway use)	Header transport	Silage wagon
Feed grinder	Hopper bottom skid bins w/installed aeration	Skidsteer
Feed mill (portable)	Land levelers and laser systems	Solar water circulators
Feed rack (portable on wheels)	Land roller	Sprayers-self propelled
Feed treater	Livestock scale (portable)	Spreader
Feed mixer	Loader	Squeeze chute (portable)
Feed wagon	Loading chutes (portable)	Stack liner
Fertilizer spreader	Manure pumps	Stack mover
Flax roller	Milk coolers	Stacker and hay cage
Forage harvester	Milking machines (portable)	Stalk cutter
Forage hay pickup	Milk unit washer	Straw chopper
Grain bin (portable on wheels)	Mixer-feeder wagon	Sunflower drum
Grain cart	Plow	Sunflower pans
Grain cleaner (portable)	Potato conveyors (portable)	Sunflower header
Grain drill	Potato digger	Swath roller
Grain dryer	Powered post drivers	Swather
Grain heater	Powered posthole diggers	Swather transport
Grain vac	Rock picker	Tillage hitch
Grain auger	Roller mill	Torque limiter
	Rotary cutter	Tractor
		Windrower

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

Please remember that the 3 percent gross receipts tax rate on new farm machinery and the exemption for used farm machinery 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 new farm machinery being sold, less any allowable trade-in or discount.

Attachments and Accessories

Attachments are 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 if used for a qualifying agricultural purpose. 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 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.

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. Generally, property below the irrigation pivot point is considered installed into real property. Generators or other power supply equipment affixed or attached to real property are not eligible for the reduced rate. 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.

Repair Parts

All farm machinery repair parts and irrigation equipment repair parts are exempt from sales and gross receipts tax. This exemption applies only when the repair parts are for farm machinery or irrigation equipment 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 means repair or replacement parts for farm machinery that have a specific or generic part number assigned by the manufacturer of the farm machinery. Irrigation equipment repair parts means repair or replacement parts for irrigation equipment that have a specific or generic part number assigned by the manufacturer of the irrigation equipment. Farm machinery and irrigation equipment repair parts do not include tires, fluid, gas, grease, lubricant, wax, or paint.

There are a wide range of goods that can serve either as farm machinery or irrigation 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 whether or not the parts are used on qualifying farm machinery or irrigation equipment. When the parts are installed on qualifying farm machinery or irrigation equipment, the parts are exempt from gross receipts tax. If the repairs are not installed on qualifying farm machinery or irrigation equipment, 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 the **customer's** word as to what the part will be used for. When the purchaser intends to use the parts on qualifying farm machinery or irrigation equipment, the part is exempt from gross receipts tax. If the parts are for nonfarm 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 or irrigation repair 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.

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

Rentals and Leases

Implement dealers frequently rent or lease farm machinery or farm irrigation equipment to their customers. Rental or lease of new farm machinery or irrigation equipment is a retail sale under North Dakota Gross Receipts Tax Law and 3 percent gross receipts tax must be collected on the rental or lease payments. If the equipment being leased or rented fits into the category of used farm machinery or used irrigation equipment, the rental or lease payments are exempt from sales and gross receipts taxes. "Used" includes farm machinery and irrigation equipment that has been under lease or rental for three years or more. Lease buyouts that occur while the property fits the definition of new are subject to farm machinery gross receipts tax. Lease buyouts that occur after farm machinery or irrigation equipment has been leased or rented for more than three years is exempt from gross receipts tax because the qualifying equipment is used.

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

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 (ATVs) and trailers weighing more than 1500 pounds also are subject to the 5 percent Motor Vehicle Excise Tax. All-terrain vehicles not registered as motor vehicles and designated for farm use are subject to 5 percent state and applicable local sales taxes. Only ATV's sold with a mounted spray kit and used exclusively in agricultural production qualify as farm machinery subject to the reduced gross receipts tax rate or exemption.

Repair parts, attachments and accessories 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 machinery; therefore, repair parts, attachments and accessories for the farm trucks are not exempt from sales or gross receipts tax.

Installation into Real Property

Barn cleaners, milking systems, automatic feeding systems, irrigation systems and other types of machinery 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.

Trade-in Allowance

Trade-in of used farm machinery and attachments are deducted from the selling price of any new farm machinery or attachments 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 machinery or equipment qualifies as *farm machinery*. If the used trade-in equipment does not qualify as *farm machinery used for agricultural purposes* it is taxed at 5 percent sales tax when sold. Tractors, tractor mounted snowblowers, mowers and other machinery sold to individuals who live in a rural area but who are not farmers do not qualify for the farm machinery reduced rate or exemption.

Replacement of Insured Machinery

When new farm machinery is purchased as a replacement for machinery that was stolen or totally destroyed, a credit similar to a trade-in credit is allowed against one or more replacement purchases. The credit, which ultimately reduces the tax paid on replacement equipment, is equal to the compensation received from an insurance company for the loss. To document the credit, the purchaser must provide the seller with a notarized statement from the insurance company verifying that the original farm machinery was a total loss and indicating the amount of compensation. If the full amount of the credit cannot be used in one purchase, the seller must notate on the notarized statement the amount of credit used, retain a copy of the notarized statement, and return the original notarized statement to the purchaser. The purchaser may use the remaining available credit on future transactions. Tax on replacement equipment is calculated as the purchase price of replacement equipment less available credit times the farm machinery gross receipts tax rate [(purchase price – credit) X .03].

Farm Auctions

Used farm machinery is exempt from sales and gross receipts taxes when purchased exclusively for agricultural use. Therefore, most farm machinery sales at farm auctions are not subject to sales or gross receipts tax. In addition, many sales at farm auctions to non-farmers are casual sales exempt from sales tax. To qualify as an exempt casual sale, the goods may not be inventory of a retailer and the owner of the property must be disclosed. For more information about the taxability of auction sales, see the *Auctioneers* guideline.

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.

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 a shipping company, 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 goods were delivered to a point outside of North Dakota.

Sales to Residents of Montana - Under a specific exemption in North Dakota sales tax law, a person from Montana may purchase implements, equipment or any personal property in the State of North Dakota and take delivery in this state without paying North Dakota sales or gross receipts tax. Person means natural persons, Montana corporations, and other business entities when the owners, partners, or members are individual Montana residents or domestic Montana corporations.

To qualify for this exemption, the person must be in North Dakota for the express purpose of making a purchase, the purchase must exceed \$50.00 and the person must sign a certificate of purchase stating the goods will be used outside the State. 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 Special Taxes Section, 600 E. Boulevard Ave. Dept. 127, Bismarck, North Dakota 58505-0599 or e-mail salestax@nd.gov.

By signing the *Certificate of Purchase* form, purchasers are certifying they qualify for the exemption and will not be bringing the property back into North Dakota for use.

Sales to Residents of Canada

North Dakota Sales, Use and Gross Receipts Tax laws requires Canadian residents to pay North Dakota sales tax or 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 to the Tax Commissioner on a form prescribed by the Tax Commissioner. The form prescribed is an on-line application, which is accessed from the department website at www.nd.gov/tax.
- (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.)

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.

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. Used farm machinery, used farm irrigation equipment, farm machinery repair parts, and irrigation equipment repair parts that are exempt from state sales and gross receipts tax are also exempt 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 Special Taxes Section.