

**Illinois Department of Revenue
Regulations**

Title 86 Part 130 Section 130.305 Farm Machinery and Equipment

**TITLE 86: REVENUE
PART 130
RETAILERS' OCCUPATION TAX**

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.305 Farm Machinery and Equipment

- a) General: Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax does not apply to sales of machinery and equipment, both new and used and including that manufactured on special order, used or leased for use primarily in **production agriculture** or for use in State or Federal agricultural programs, including any individual replacement part for such machinery and equipment. A purchaser must certify to the use of the equipment to obtain the exemption.
- b) Production Agriculture is *the raising of or the propagation of: Livestock, crops for sale for human consumption; crops for livestock consumption; and production seed stock grown for the propagation of feed grains and the husbandry of animals or, for the purpose of providing a food product, including the husbandry of blood stock as a main source of providing a food product. Production Agriculture also includes animal husbandry, floriculture, aquaculture, horticulture and viticulture.* (Section 2-35 of the Act)
- c) Horticulture means the business of producing vegetables, vegetable plants, nursery stock, including the operation of nurseries and orchards, but not the sale of plants by retail outlets which do not grow the plant stock.
- d) Floriculture means the business of producing flowers, Christmas trees or other decorative trees, plants, shrubs, sod, including such operations as greenhouses but not the sale of plants by retail outlets which do not grow plant stock.
- e) Viticulture means the business of growing grapes or operating vineyards.
- f) **Production Agriculture**, with respect to crops, is limited to activities necessary in tilling the soil, planting, irrigating, cultivating, applying herbicide, insecticide or fertilizer, harvesting and drying of crops. Specialized food production operations which produce plants under controlled environments in growing media other than soil, qualify as production agriculture. **Activities such as the clearing of land, mowing of fence rows, creation of ponds or drainage facilities are not included,** nor are the operations involved in the storing or transporting of crops and produce. The processing of crops into food or other products is not production agriculture. With respect to the raising of or propagation of livestock and husbandry of animals, the animals must be domestic farm animals raised for

profit. The raising of wild animals, game birds and house pets would not be considered to be production agriculture.

- g) The transport, slaughter and processing of animals or animal food products are not considered to be production agriculture.
- h) Farm machinery and equipment. The exemption applies only to items of farm machinery and equipment, either new or used, certified by the purchaser to be used primarily for production agriculture or State or Federal agricultural programs, and including machinery and equipment purchased for lease. Included in this exemption are implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code. Excluded from this exemption are other motor vehicles required to be registered pursuant to the Illinois Vehicle Code. Registered vehicles other than motor vehicles may qualify for the exemption if they are used primarily in production agriculture rather than in transportation or other nonexempt activities. Examples of this include implements of husbandry used primarily to supply and apply farm chemicals; trailers and nurse tanks used primarily to supply spreaders in the fields; and aircraft used primarily to apply farm chemicals. All-terrain vehicles (ATVs) may qualify if they are used primarily in production agriculture activities such as pulling sprayers while they apply chemicals to fields or collecting and mapping soil samples. The use of ATVs for farm transportation or recreation purposes does not constitute production agriculture. When ATVs are used in both production agriculture and nonqualifying activities, the primary use will determine if they qualify for exemption. The law exempts only the purchase and use of farm machinery and equipment used in production agriculture or State or Federal agricultural programs. No other type or kind of tangible personal property will qualify for the exemption.
- i) Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or Federal agricultural programs. Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos, and confinement buildings. A rotary mower which would not qualify for exemption if used to mow ditches or fence rows, would qualify for exemption if primarily used to mow crops or ground cover grown on acreage in State or Federal agricultural programs. Certain machines qualify for the exemption if purchased by farmers directly from retailers, even though they are installed as realty improvements. Such machines include but are not limited to augers, grain dryers (heaters and fans), automated livestock feeder bunks (but not ordinary building materials), automatic stock waterers (powered by electricity or water pressure and built into a permanent plumbing system), and water pumps serving production areas, specialty heating or lighting equipment specifically required by the production process, i.e., ultraviolet lights, and special heaters for incubation. General heating, lighting and ventilation equipment does not qualify as farm machinery or equipment. A person (such as a plumbing contractor) who contracts to provide and install an exempt machine or equipment permanently into real estate must obtain an exemption certificate from the person purchasing the machine. The contractor must furnish certification to the seller, attaching the certificate of the purchaser in order to claim the exemption.

- j) A tractor or other machinery which qualifies for the exemption may include options or accessories which are not farm equipment. Except for precision farming equipment, these items must be installed and sold both as an integral part of the qualifying machine and in a single transaction. *Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.* (Section 2-5 of the Act)
- k) Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture. Equipment does not include ordinary building materials to be permanently affixed to real estate. However, certain items of equipment can qualify for the exemption even though they are installed as realty improvements. Such items of equipment include, but are not limited to, farrowing crates, gestation stalls, poultry cages, portable panels for confinement facilities and flooring used in conjunction with waste disposal machinery. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants are considered farm machinery and equipment. Wheeled, wire-mesh tables and wheeled, non-motorized, multiple-tray carts used primarily in floricultural or horticultural growing operations, such as those described in *Mid-American Growers v. Department of Revenue* (143 Ill.App.3d 600), are considered farm machinery and equipment. Equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment, including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, yield monitors, computers, monitors, software, global positioning and mapping systems, guidance systems, modems, and data communications equipment. It shall also include necessary mounting hardware, wiring and antennas. Farm machinery and equipment also includes computers, sensors, software and related equipment used primarily in the computer assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. Example: Precision farming and computer assisted operation of production agriculture facilities includes the collection and processing of crop and soil data, the processing of that data, and the use of that data or its products in production agriculture. Thus, machinery and equipment such as soil sensors, moisture sensors and yield monitors would collect data on a particular field. This information would be precisely correlated to a specific location by use of satellite GPS systems linked to a computer. These devices would typically be mounted on a tractor or combine. These devices could also be hand held or mounted on other types of vehicles even though those vehicles, such as pick-up trucks, do not qualify for the exemption. The data collected from the farm field would then be transferred to a base station computer electronically by modem, or via magnetic media or CD ROM disk. The data would be processed by the base station computer and integrated into or overlaid on digital maps of the farm field. The farmer could use the information to make decisions about what types of crops to plant and the type, formula and application rate of fertilizer, pesticide or other agricultural chemical to apply to the field. The processed and integrated data would then be available for use by the farmer in planting or could be transferred to a fertilizer dealer who applies farm chemicals. The fertilizer dealer would use the information about the farmer's field and the digital map to determine the type and formula of chemical to be applied to the farmer's field and the

rate of application. That information would be transferred to the computer in the fertilizer spreader. With the aid of a GPS system linked to the computer in the fertilizer spreader, the fertilizer dealer would be able to precisely apply the necessary chemicals and vary the application rate to meet crop needs across the field. All of the sensors, computers, software and accessories described above would qualify for the exemption. A livestock farmer would use microchips and sensors to identify specific animals and determine individual growth information for animals. This information would be used by computers to determine the optimum feed/diet for the animal and could then be used to dispense the proper type and amount of feed to the animal. In confinement buildings, temperature and moisture sensors may be linked through computers to control heating, ventilation and lighting for livestock as well as regulating the automatic stock feeders and waterers. Precision farming equipment would include the microchips, sensors, computers and computer controlled feeding equipment and environmental controls. The use of computers to record and process crop and livestock management information gathered through the use of these types of sensors or monitors constitutes precision farming. However, the use of computers to record and process other farm related information such as accounts payable, correspondence, or marketing does not constitute precision farming. When a computer is used for both precision farming and nonqualifying purposes, the primary use of the computer will determine if it qualifies for the exemption. The use of computers to record and process land information about soil types and slope and pesticide, herbicide and fertilizer application also constitutes precision farming. Equipment used in farm management such as radios and office equipment, in repair and servicing of equipment, in security and fire protection, is not farm equipment; nor does the exemption apply to equipment used in farm maintenance, administration, selling, marketing or the exhibition of products. The exemption does include hand-operated equipment such as wheelbarrows, hoes, rakes, pitchforks and shovels so long as they are used in production agriculture as that term is defined in subsection (b) of this Section. Hand tools used in maintenance activities, such as wrenches, pliers, wire stretchers, grease guns, hammers and screwdrivers, are not used in production and do not qualify for the exemption. Supplies, such as baling wire, baling twine, work gloves, boots, overshoes and chemicals for effluent systems are not exempt.

- l) New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or Federal agricultural programs, qualify for the exemption. With the exception of precision farming items, accessories or replacements not essential to the operation of the machinery itself, except when sold as an integral part of a qualified machine at the time of purchase, such as radios, tool or utility boxes, do not qualify for the exemption. Included in the repair or replacement parts category are: batteries, tires, fan belts, mufflers, spark plugs, plow points, standard type motors and cutting parts. Consumable supplies such as fuel, grease, oil and anti-freeze are not repair or replacement parts.
- m) Exemption certifications must be executed by the purchaser. The certificate must include the seller's name and address, the purchaser's name and address and a statement that the property purchased will be used primarily in production agriculture or in State or Federal agricultural programs. Retailers may accept blanket certificates but have the responsibility to obtain and must maintain the certificates as a part of their books and records. Retailers are required to exercise good faith in accepting exemption certificates. If, however, a retailer reasonably believes that the purchaser

will use farm machinery or equipment in production agriculture or in State or Federal agricultural programs and accepts the certificate in good faith and the purchaser does not, in fact, use the machinery or equipment in production agriculture or in State or Federal agricultural programs, the purchaser will be liable to the Department for the tax. An item of farm machinery and equipment which is initially used primarily in production agriculture and having been so used for less than one-half of its useful life, is converted to primarily nonexempt uses, will become subject to tax at the time of the conversion. Such tax will be collected on such portion of the price of the machinery and equipment as was excluded from tax at the time the sale or purchase was made.

- n) Leasing. Farm machinery and equipment purchased for lease to be used by the lessee primarily in production agriculture or in State or Federal agricultural programs qualifies for the exemption. The lessor purchasing such equipment must certify that the equipment will be so used. Should a purchaser-lessor subsequently lease the machinery or equipment primarily to lessees who do not use it in a manner that would qualify for the exemption, the purchaser-lessor will become liable for the tax from which he was previously exempted.
- o) Custom farmers or special service operators, i.e., crop dusting, fertilizer spraying, combining or corn shelling, who provide a service-for-hire on farms other than their own which is an integral part of production agriculture may also claim the exemption if the equipment is used primarily in production agriculture.

(Source: Amended at 24 Ill. Reg. 15104, effective October 2, 2000)