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Law Change Effective July 1, 2005 Products Used in Agricultural Production

Recent legislative changes to the sales tax statute affects the exemption previously provided for agricultural and aquacultural products, namely seed, feed, hormones, fertilizer, pesticides, insecticides, fungicides, antibiotics, weed killers, defoliant, litter and medicines. The previous law exempted these items from sales tax provided they were used in agricultural production or aquacultural production. These items were exempt whether sold to an individual for home use or to a person engaged in a commercial activity.

The change separates the exemption into three categories:

Products used in aquacultural production and bait. Sales of feed, hormones, pesticides, antibiotics and medicine for use in aquacultural production and sales of bait to commercial fishermen.

Products used in commercial agricultural crop production. Sales of seed, fertilizers, defoliant and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial production of an agricultural crop.

Products used in animal agriculture. Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production. Animal agricultural production includes the raising and keeping of equines.

Retailers selling any of these types of products should take note of two major changes:

- Items used in crop production will only be exempt if used in a commercial activity. No longer will an individual be exempt when purchasing items such as vegetable seeds, garden fertilizer and garden pesticides.
- Items used in animal agriculture have been expanded to exempt breeding stock, semen and embryos. This category continues to apply both to non-commercial and commercial agricultural use.

Sales of products for use in animal agriculture as listed above will be considered exempt if it is a product that is ordinarily used in, on or for agricultural animals. If an item sold is not ordinarily for agricultural animals, the retailer must obtain proper documentation from the purchaser certifying that the product(s) will be used in animal agriculture.

Since products for use in agricultural crop production must be for use in a commercial activity, the retailer must obtain proper documentation from the purchaser that the purchaser is engaged in commercial crop production.