

## Chapter 15

### Agriculture

#### A. General Information

The agriculture industry enjoys numerous exclusions and exemptions from sales and use tax. This chapter will provide a more detailed discussion of the common exclusions and exemptions available to persons in the agriculture industry.

#### B. Machines, Parts and Attachments<sup>1</sup>

The sale of farm machinery that is used in planting, cultivating or harvesting farm crops for sale is exempt from the tax. The exemption also applies to replacement parts and attachments.

Planting includes all necessary steps in the preparation of the soil prior to, and including, the planting and sowing of the seed.

Cultivation includes the loosening of the soil around growing plants, control of moisture content in the soil, and weed and pest control.

Harvesting begins with the gathering of the crop and ends when the crop is placed in a temporary or permanent storage area. However, it also includes the additional preparation for storage or sale of certain crops such as the curing of tobacco, grains and peanuts and the grading and packaging of peaches, cucumbers, tomatoes, etc.

The machinery exemption also applies to:

- machinery used in constructing terraces, drainage and irrigation ditches; dikes used to control the water level in cultivated fields; and land clearing prior to cultivation of the soil;
- machinery specially designed for irrigation purposes, including pumps, pipes, spigots, etc. when sold for use in the cultivation of farm crops;
- farm dairy tanks used in the production and preservation of milk on dairy farms;
- farm wagons substantially used in planting, cultivating or harvesting farm crops (i.e., hay, corn, peaches) for sale in their original state of production or preparation for sale; and
- pasteurizing machines, cooling machines, mechanical separators, homogenizing machines and bottling machines used by dairies in the production of milk for sale. Milking machines do not come within the exemption for farm machinery.

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<sup>1</sup> SC Regulation 117-301.5.

Various machines used in the production of poultry and poultry products are exempt from the tax. See SC Regulation 117-301.5 for more details.

The machinery exemption does **not** apply to:

- automobiles and trucks;
- farm wagons not substantially used in planting, cultivating or harvesting farm crops (i.e., hay, corn, peaches) for sale in their original state of production or preparation for sale;<sup>2</sup>
- machinery used in constructing fences and buildings and repairing machinery and equipment; and
- farm implements such as hoes, pitchforks and shovels.

### C. Livestock<sup>3</sup>

The sale of livestock is exempt from the tax.<sup>4</sup> Livestock is defined as domesticated animals customarily raised on South Carolina farms for use primarily as beasts of burden or food. Livestock also means mammals raised for their pelts or furs.

The practical result of the above is to exempt from the tax horses, mules, cattle, swine, sheep, goats, rabbits, ostriches, honey bees,<sup>5</sup> and any other animals raised as food for human consumption, domesticated fish produced for human consumption, and chinchillas.

Animals such as dogs, cats, reptiles, fowls (except baby chicks and poults), minnows, worms, fish (except those cultivated for human consumption), and animals of a wild nature are not considered livestock.

### D. Feed<sup>6</sup>

The sale of feed used in the production and maintenance of livestock<sup>7</sup> is exempt from the tax. Horse feed,<sup>8</sup> rabbit feed used in the production and maintenance of rabbits for human consumption, and feed used in the production and maintenance of fry, fingerlings and fish are exempt.

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<sup>2</sup> For example, the sale or purchase of a farm wagon for use solely in (a) hauling tractors, harvesting equipment, or cattle; or (b) hauling farm crops (i.e., hay, corn, peaches) from a storage area to market or to a buyer is **not** exempt from the sales and use tax. If a farm wagon is used for both exempt and nonexempt purposes, then the sale or purchase of the farm wagon is exempt from the sales and use tax only if it is used substantially (not merely incidentally) in the planting, cultivating, or harvesting of farm crops (i.e., hay, corn, peaches) for sale in their original state of production or preparation for sale.

<sup>3</sup> South Carolina Regulation 117-301.1

<sup>4</sup> South Carolina Code §12-36-2120(4).

<sup>5</sup> See SC Revenue Ruling #21-6 and #21-9.

<sup>6</sup> South Carolina Regulation 117-301.2

<sup>7</sup> South Carolina Code §12-36-2120(5). For definition of livestock, see SC Regulation 117-301.1.

<sup>8</sup> South Carolina Private Letter Ruling #99-1.

## **E. Insecticides, Chemicals, Fertilizers, Soil Conditioners, Seeds and Seedlings<sup>9</sup>**

Insecticides, chemicals, fertilizers, soil conditioners, seeds and seedlings used solely in the production for sale of farm, grove, vineyard or garden products are exempt from the tax.<sup>10</sup> This exemption includes:

- explosives (chemicals) used solely in the production for sale of farm, grove, vineyard or garden products;
- medicines (chemicals) used solely in the production for sale of livestock;
- insecticides, chemicals, fertilizers, soil conditioners, seeds and seedlings used solely in the production for sale of timber and timber products, nursery products, and poultry and poultry products;
- insecticides and chemicals, including washing powder, soap, etc., used by dairy operators at the dairy barn in the production for sale of products of the dairy; and
- bull semen used solely in the production for sale of livestock.

This exemption does not apply to liquid petroleum gas used for burning grass and weeds around farm crops.

## **F. Containers and Labels<sup>11</sup>**

Containers and labels used in preparing agriculture products for sale and used in preparing turpentine gum, gum spirits of turpentine, and gum resins for sale are exempt from the tax.<sup>12</sup> For the purposes of this exemption, “containers” means boxes, crates, bags, bagging, ties, barrels, and other containers.

This exemption applies to bags sold to:

- wholesale grain and feed dealers for use as furnished containers of corn and oats;
- cotton dealers or ginneries for use as furnished containers of cotton seed;
- produce dealers for use as furnished containers of potatoes, cabbage, etc.;
- peanut hullers for use as furnished containers of peanut kernels, hulls, and vines; and
- nurserymen for use as furnished containers of nursery stock.

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<sup>9</sup> South Carolina Regulation 117-301.3.

<sup>10</sup> South Carolina Code §12-36-2120(6). See also SC Revenue Ruling #16-8.

<sup>11</sup> South Carolina Regulation 117-301.4.

<sup>12</sup> South Carolina Code §12-36-2120(7).

Wrapping paper, wrapping twine, paper bags, and containers, used incident to the sale and delivery of tangible personal property are exempt.<sup>13</sup>

The above exemptions do not apply to tobacco twine used by farmers incident to the curing of tobacco.

## **G. Fuel<sup>14</sup>**

Fuel used in farm machinery and farm tractors used in planting, cultivating or harvesting farm crops and fuel used to cure agricultural products are exempt from the tax.<sup>15</sup> This applies to fuel used in curing grain in grain elevators for storage or sale.

## **H. Electricity and Gas<sup>16</sup>**

Sales of electricity and gas to farmers for use in the production of livestock and milk are exempt from the tax. Sales of electricity for residential purposes and irrigating crops are also exempt. Sales of electricity for other uses are taxable.

The following sales of electricity and gas are exempt:

- sales of electricity and natural and liquefied petroleum gas to farmers for use in the production of livestock or milk;<sup>17</sup>
- sales of electricity for irrigating farms crops;<sup>18</sup> and
- sales of electricity and gas for residential purposes.<sup>19</sup>

Sale of electricity and gas to farmers for other uses are taxable.

## **I. Building Materials, Supplies, Fixtures and Equipment for Commercial Housing of Poultry and Livestock<sup>20</sup>**

Sales of building materials, supplies, fixtures, and equipment used in the construction, repair, or improvement of a commercial housing of poultry or livestock, or that become a part of a self-contained enclosure or structure specifically designed, constructed and used for the commercial housing of poultry or livestock, are exempt from the tax.<sup>21</sup>

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<sup>13</sup> South Carolina Code §12-36-2120(14).

<sup>14</sup> South Carolina Regulation 117-301.6.

<sup>15</sup> South Carolina Code §12-36-2120, subsections (15) and (18).

<sup>16</sup> South Carolina Regulation 117-301.7.

<sup>17</sup> South Carolina Code §12-36-2120(32).

<sup>18</sup> South Carolina Code §12-36-2120(44).

<sup>19</sup> South Carolina Code §12-36-2120(33); SC Revenue Ruling #19-5.

<sup>20</sup> South Carolina Regulation 117-301.8.

<sup>21</sup> South Carolina Code §12-36-2120(45).

This exemption applies to:

- wood chips for use on the floors of self-contained enclosures or structures specifically designed, constructed, and used for the commercial housing of poultry;<sup>22</sup>
- fencing and fencing supplies when used to surround an area on all sides in order to protect livestock or poultry raised or maintained for commercial purposes. The exemption is applicable when the fencing and fencing supplies are used within a building such as a barn or a chicken house or used to surround a field that is specifically set aside and used for livestock or poultry that is raised or maintained for commercial purposes;<sup>23</sup> and
- watering tubs, feed troughs, and hay feeders placed within a fenced in area specifically set aside and used for livestock or poultry, provided the livestock and poultry within the enclosure are being raised or maintained for commercial purposes.<sup>24</sup>

The exemption does not apply to fencing and fencing supplies used to surround a field where crops are grown.

## **J. Sales by Farmers<sup>25</sup>**

Sales of farm products are exempt if sold in their original state of production and sold by the farmer or a member of the farmer's immediate family. This exemption not only applies to sales of farm products by individuals; it also applies to sales by corporations and other entities. The exemption applies to food products, ornamental plants, timber, and grass sod.

The exemption is not applicable if the farmer processes his product beyond the usual and customary preparation for sale. For example, where a farmer also operates a processing plant, he cannot claim the exemption for sales of these processed products.

## **K. Hatcheries<sup>26</sup>**

The hatchery operator may purchase under his retail license hatchery eggs for use in hatching baby chicks for sale. Hatchery eggs may be sold free of the tax to a hatchery operator not having a retail license, provided, the seller thereof takes from such operator a certificate that the property is for resale either in the original form or as baby chicks or as full grown chickens. Hatcheries engaged in the business of hatching baby chicks for others from eggs grown by those other persons (custom hatching) are rendering a service which is not subject to the tax.

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<sup>22</sup> South Carolina Information Letter #95-1.

<sup>23</sup> South Carolina Revenue Ruling #95-11.

<sup>24</sup> South Carolina Revenue Ruling #95-11.

<sup>25</sup> South Carolina Regulation 117-301.9.

<sup>26</sup> South Carolina Regulation 117-301.10.

## **L. South Carolina Agriculture Tax Exemption (“SCATE”) Card**

For many years, farmers used an exemption certificate (Form ST-8F) to purchase certain items (e.g., farm machinery, fertilizer, feed, containers) exempt from the sales and use tax. The exemption certificate has been replaced by a new South Carolina Agriculture Tax Exemption (“SCATE”) card issued by the South Carolina Department of Agriculture. The Department of Agriculture began accepting applications and issuing SCATE cards in February 2022. These cards replaced the agricultural exemption certificate effective July 1, 2022.

To obtain a SCATE card, a farmer must apply with the Department of Agriculture at [SCATEcard.com](http://SCATEcard.com). A temporary proviso<sup>27</sup> authorizes the Department of Agriculture to charge up to \$24 for a three-year SCATE card. This provision also authorizes the Department of Agriculture to charge \$5 for any replacement SCATE cards.

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<sup>27</sup> Act No. 239 of 2022, Proviso 44.10.