



Agri-Business General Information 2016

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It is not intended to be a stand-alone document.

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Nebraska tax statutes, regulations, information guides, and other resources are available at revenue.nebraska.gov.

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Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes. [Click here for more information.](#)

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Sales Tax Exemption for Agricultural Repair and Replacement Parts

Effective October 1, 2014, sales of all repair and replacement parts used to repair agricultural machinery and equipment used in commercial agriculture are exempt from sales and use taxes.

- [LB 96 \(2014\)](#)
- [News Release \(09/30/2014\)](#)
- [Information Guide: Agricultural Machinery and Equipment Sales Tax Exemption](#)
- [Nebraska Resale or Exempt Sale Certificate, Form 13](#)

The purchaser must issue to the seller a properly completed Form 13, Section B, exempt category 2, to exempt the purchase from tax.
- [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG-1](#)
- [Nebraska Sales Tax Exemption Chart](#)
- [Reg-1-094, Agricultural Machinery and Equipment Refund](#)

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Today's Agenda

- [Overview of Sales and Use Tax](#)
- [Agricultural Machinery and Equipment](#)
- [Repair and Replacement Parts](#)
- [Personal Property Tax](#)
- [Contractor Issues](#)
- [Purchases That Do Not Qualify](#)
- [Agricultural Feed, Seeds and Plants, Medicines, and Chemicals](#)
- [Water and Energy Source Utility Exemption](#)
- [Summary of Commercial Ag Purchases](#)

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Overview of Sales and Use Tax

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Overview of Sales Tax

Sales tax is...

- ... a transactional tax,
- ... based on the transaction, rather than the item sold.

A sale is...

- ... the transfer of title or possession of an item, or
- ... providing a service,
- ... for consideration.

For more information, see our guide [Nebraska and Local Sales Tax](#) or [Reg-0-001 - Nature of Sales Tax](#).

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A lease or rental of tangible personal property...

...is a sale,
...a lease or rental is a transfer of control or possession of the property.

Sales tax is due on each lease or rental payment.

For more information, see [Reg-1-018 - Rent or Lease of Tangible Personal Property](#).

The Bottom Line for Sales Tax

Sellers must collect sales tax
or
document why they did not.

What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are not both due on the same transaction.
- The big difference is who remits the tax -
 - Sales tax is collected and remitted by the seller.
 - Use tax is paid directly to the Department by the purchaser/consumer.

Use Tax and Sales Tax Have These Things in Common –

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate.
 - Where delivery occurs or
 - Where first usage in Nebraska takes place.

When Use Tax is Due

- Use tax is often due when purchases are made from an out-of-state seller
 - Internet, catalog, mail order
 - Magazines and journals by subscription
- Use tax is due when the business withdraws tax-free inventory for business or personal use (including donations)
 - Auto mechanic
 - Hair salon

Note: Be sure to maintain good records!

Agricultural Machinery and Equipment

Purchases of ag equipment are sales and use tax exempt when all three of these criteria are met (refer to Reg-1-094):

- The item is used directly in commercial agriculture;
- The item meets the definition of ag equipment; and
- The purchaser properly completes a Form 13, Section B.

Commercial agriculture is:

- Producing food products or other useful and valuable crops;
- or
- Raising or caring for animals.

The crops or animals can either be sold or used by the farmer/rancher to produce other products for sale.

Commercial agriculture also includes commercial production in:

- Feedlots;
- Greenhouses;
- Nurseries;
- Sod farms; and
- Tree farms.

Commercial agriculture does not include:

- Animals in sale barns;
- Animals in stockyards;
- Storage of products in commercial elevators; or
- Storage of products off the farm.

Ag equipment:

- Must be depreciable tangible personal property, even if the owner chooses not to depreciate it for income tax purposes;
- Has a determinable life of more than 1 year; and
- Is used in commercial agriculture for the production of income.

- Leases of qualified ag equipment are exempt from sales and use taxes when used directly in commercial agriculture.
- The lessee must give a Form 13, Section B to the lessor.

Ag equipment does not include:

- Real estate;
- Licensable motor vehicles, trailers, and semi-trailers;
- Equipment used in processing at a commercial facility;
- Well drilling equipment;
- Office equipment; or
- Other non-qualifying equipment.

Qualified ag equipment is exempt from sales and use taxes when purchased at an auction...

...provided the purchaser gives the auctioneer a properly completed Form 13, Section B, Category 2.

Form 13, Section B

 Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption		Form 13
Name and Mailing Address of Purchaser		Name and Mailing Address of Seller
Name		Name
Legal Name		
Street Address (Do not use PO Box)		Street or Other Mailing Address
City	State	Zip Code
City	State	Zip Code
Check Type of Certificate <input type="checkbox"/> Single Purchase If single purchase is checked, enter the related invoice or purchase order number: _____ <input checked="" type="checkbox"/> Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.		
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason: Check One <input type="checkbox"/> Purchase for Resale (Complete Section A.) <input checked="" type="checkbox"/> Exempt Purchase (Complete Section B.) <input type="checkbox"/> Contractor (Complete Section C.)		
Section B—Nebraska Exempt Sale Certificate		
The basis for this exemption is exemption category <u>2</u> (insert appropriate number for the category of exemption described on the reverse side). If exemption category 2 or 5 is claimed, enter the following information: Description of Items Purchased <u>farm machinery, repair and replacement parts</u> Intended Use of Items Purchased <u>commercial agriculture</u>		
If exemption category 3 or 4 is claimed, enter your Nebraska Exemption Certificate number: 05- _____ Do not enter your Federal Employer ID Number.		
If exemption category 6 is claimed, the seller must enter the following information and sign this form below: Description of Items Sold _____ Date of Seller's Original Purchase _____ Was tax paid when purchased by seller? <input type="checkbox"/> Yes <input type="checkbox"/> No Was item depreciable? <input type="checkbox"/> Yes <input type="checkbox"/> No		

For more information, see Form 13 instructions.

Repair and Replacement Parts for Ag Equipment

Personal Property Tax

- All depreciable ag equipment must be reported for personal property tax purposes, even if sales tax is paid on the item.
- Property tax is not related to sales tax.

Refer to
Sales and Use Tax [Regulation 1-094.05](#) –
Agricultural Machinery and Equipment Refund, and
[Personal Property](#) on the Property Assessment website
for additional information.

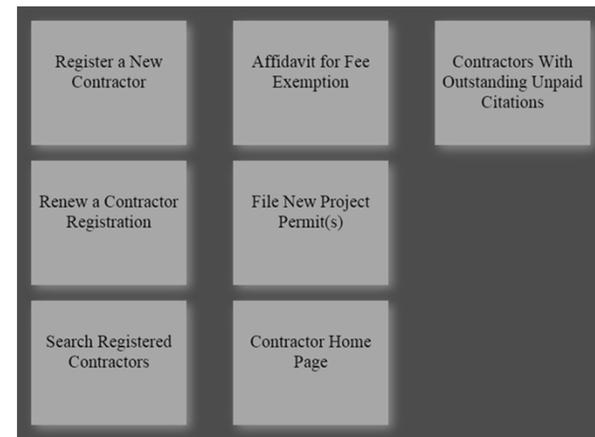
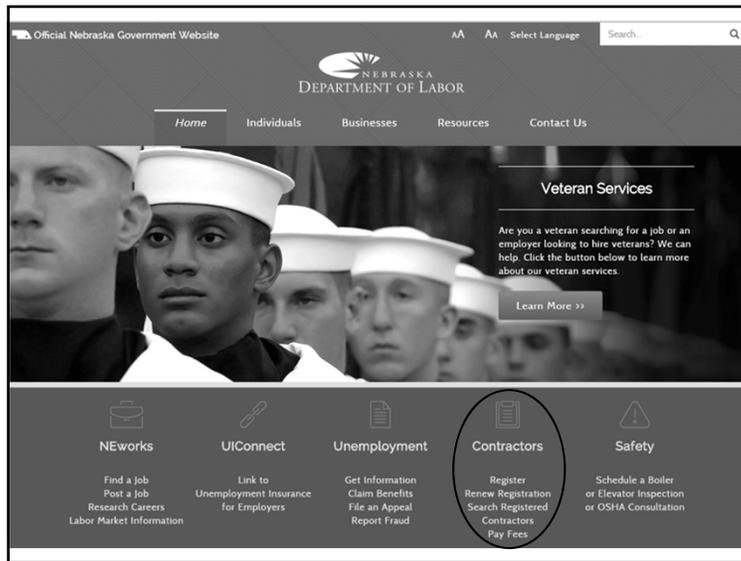
- All depreciable tangible personal property owned as of January 1 at 12:01 a.m. each year must be reported.
- A [Nebraska Personal Property Return](#) is filed with the county assessor.
- The return must be filed each year on or before May 1.

Contractor Database

The Nebraska Contractor Registration Act requires contractors and subcontractors doing business in Nebraska to register with the Nebraska Department of Labor.

- Every construction contractor making payment to a subcontractor must withhold 5%;
- Unless the subcontractor is registered in the Department of Labor's Contractor Registration Database.

- A single definition of “contractor” is used for purposes of the Contractor Registration Act and construction contractor withholding. (This definition is slightly different than the sales and use tax definition of a contractor.)
- A centralized registration system is used for construction contractors.
- The Department of Labor administers the Contractor Database.



Contractor Issues

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Contractor Issues

When Work on Ag Equipment Involves Charges for Contractor Labor

- Contractor labor is sales tax exempt; and
- The contractor option chosen determines taxability of purchases of ag equipment or any repair parts.

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Contractor Issues (continued)

Option 1 Contractor

- Transactions with the Supplier
 - The Option 1 contractor can purchase building materials and fixtures sales tax exempt for resale.
 - They must give their Nebraska supplier a properly completed Form 13, Section C, Block 1.
- Transactions with the Farmer/Rancher
 - The Option 1 contractor must collect sales tax on separately stated charges for building materials and fixtures unless...
 - A properly completed Form 13, Section B, Category 2, is obtained for qualified agricultural machinery and equipment (for example, a stirrator in a grain bin).

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Contractor Issues (continued)

Option 2 Contractor

- Transactions with the Supplier
 - The Option 2 contractor pays sales or use tax on its purchase of building materials and fixtures.
- Transactions with the Farmer/Rancher
 - The Option 2 contractor does not collect sales tax on any portion of the invoice and cannot accept a Form 13.

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Option 3 Contractor

- Transactions with the Supplier
 - The Option 3 contractor buys building materials and fixtures sales tax exempt.
 - They must give their Nebraska supplier a properly completed Form 13, Section C, Block 1.
- Transactions with the Farmer/Rancher
 - The Option 3 contractor must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
 - They do not collect sales tax on any portion of the invoice and cannot accept a Form 13.

Form 13, Section C – For Contractors Only

REVENUE		Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption		Form 13	
Name and Mailing Address of Purchaser			Name and Mailing Address of Seller		
Name			Name		
Legal Name			Legal Name		
Street Address (Do not use PO box)			Street or Other Mailing Address		
City		State	Zip Code	City	
State		Zip Code	State		Zip Code
Check Type of Certificate					
<input type="checkbox"/> Single Purchase		If single purchase is checked, enter the related invoice or purchase order number: _____			
<input type="checkbox"/> Blanket		If blanket is checked, this certificate is valid until revoked in writing by the purchaser.			
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:					
Check One <input type="checkbox"/> Purchase for Resale (Complete Section A.) <input type="checkbox"/> Exempt Purchase (Complete Section B.) <input type="checkbox"/> Contractor (Complete Section C.)					
Section C—For Contractors Only					
1. Purchase of building materials or fixtures.					
<input type="checkbox"/> As an Option 1 or Option 3 contractor, I hereby certify that the purchase of building materials and fixtures from the seller listed above are exempt from Nebraska sales tax. My Nebraska Sales or Use Tax Permit Number is: _____					
2. Purchases made by an Option 2 contractor under a Purchasing Agent Appointment on behalf of _____ (exempt entity)					
As an Option 2 contractor, I hereby certify that the purchase of building materials and fixtures from the seller listed above is exempt from Nebraska sales tax pursuant to the attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17.					

For more detailed information, refer to the
Form 13 instructions and Reg-1-017, Contractors.

Purchases That Do Not Qualify

Buildings and Most Structures Do Not Qualify for the Ag Equipment Exemption

- Concrete feed bunks do not qualify if they are permanently attached.
- Barns and outbuildings do not qualify.
- Grain bins do not qualify.
- However, the stirrator in the grain bin does qualify for the exemption.

Ag Feed, Seeds and Plants, Medicines, and Chemicals

For Qualifying Animals, Non-qualifying Animals, & Crops

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Ag Feed

Qualifying Animals

Feed, seeds and plants, medicines, chemicals, and water for animal life that produce food and clothing (qualifying animals) can be purchased sales tax exempt.

Examples (include, but are not limited to) -

- Bees
- Cattle
- Chickens
- Game birds
- Sheep
- Swine
- Turkeys

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Ag Feed (continued)

Non-qualifying Animals

Feed, seeds and plants, medicines, chemicals, and water for animals that do not produce food (non-qualifying animals) are subject to sales tax.

Examples (include, but are not limited to) -

- Domesticated elk and deer
- Horses, donkeys, mules, and work animals
- Ostriches and emus
- Pets (birds, cats, dogs, etc.)

This includes any non-food producing breeding stock.

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Ag Feed (continued)

Purchases of Feed Used in the Caring for Qualifying Animals are Sales Tax Exempt

Examples -

- Hay
- Grit
- Minerals and vitamins
- Salt blocks
- Silage

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Purchases of Seeds and Plants for Use in Commercial Agriculture are Sales Tax Exempt

Seeds and plants are sales tax exempt when used in commercial agriculture by -

- Greenhouses
- Nurseries
- Tree farms

To Buy Seeds and Plants Sales Tax Exempt for Use in Commercial Agriculture

- Complete Form 13, Section B, Category 2, and give it to your seller.

Cover Crop Seeds

Cover crop seeds, when purchased by a person engaged in commercial agriculture, are tax exempt when the cover crop:

- Contributes to the production of the land
 - Soil fertility
 - Soil quality

Cover crop seeds, when purchased by a person engaged in commercial agriculture, are not tax exempt when used for:

- Ground that has been taken out of production
- Erosion control purposes

Seeds and Plants Cannot Be Purchased Sales Tax Exempt When Used for the Following Planting Purposes

- Residential or commercial lawns
- Private ornamental gardens
- Private golf courses
- Seed for land that is removed from production

Veterinary Medicines

Purchases of veterinary medicines are sales tax exempt when used for:

- Prevention or treatment of disease of qualifying animals; and
- Treatment of the injuries of qualifying animals.

Examples (include, but are not limited to) -

- Drugs
- Antibiotics
- Antitoxins

Drugs

Drugs for human use are tax exempt when prescribed in writing by a physician or dentist

- Drugs can be either dispensed by a pharmacist or administered by a health care professional
- Refilling a prescription

Over-the-counter drugs for human use are taxable when purchased

- With or without prescription

Bottom Line for Drugs

Prescription drugs filled by a pharmacy or administered by a health professional for human use are tax exempt.

Prescription drugs filled by a pharmacy for animals that are not raised for food (for example, dogs or cats) are taxable.

Ag Chemicals for Animals

When ag chemicals are used for these commercial ag purposes, they are sales tax exempt:

- Controlling pests of qualifying animals;
 - Pesticides
 - Insecticides

or

- Affecting a qualifying animal's growth.
 - Growth-regulating chemicals and hormones

Ag Chemicals for Crops

Ag chemicals applied to land or crops in commercial agriculture may be purchased sales tax exempt.

Exempt examples include -

- Fertilizers
- Fungicides
- Herbicides
- Insecticides

When To Use Form 13 for the Ag Exemption

A Form 13 is required when the product can be used in the treatment and care of both:

- Qualifying; and
- Non-qualifying animals.

A Form 13 is not required when the product is labeled by the manufacturer as solely to be used for treatment or care of qualifying animals.

Water and Energy Source Utility Exemption

Water Used for Ag Purposes

Water is sales tax exempt when more than 90% of the water billed through the meter is used for one or more of the following tax exempt purposes:

- Irrigation of agricultural lands; or
- Care for qualifying animals.

A Form 13 must be issued to the utility when claiming this exemption, unless the utility assigns a formal usage classification.

Energy Source Utility Exemption

A qualified energy source is sales tax exempt when more than 50% of the energy is used for:

- Commercial feed grinding;
- Commercial grain drying;
- Farming; or
- Irrigation.

To purchase energy sources sales tax exempt, give a Form 13E to the seller.

Refer to Sales and Use Tax Regulation 1-089 Energy Source Utility Exemption, for more information.

- Example of Qualified Use

The electricity billed through a single meter at a hog confinement building qualifies (more than 50% rule).

- Example of Nonqualified Use

The energy used in the farmer/rancher's repair shop is taxable.

The seller is not responsible for collecting sales tax on sales of dyed diesel fuel when delivery takes place by

- Pumping it into a bulk tank equipped with a hose and nozzle;
- Pumping it directly into the fuel tank of an off-road vehicle;
 - Farm tractor ○ Bulldozer ○ Excavator
 - Combine ○ Road grader ○ Boat
- Pumping it directly into a supply tank that fuels equipment that generates electricity; or
- Pumping it directly into a supply tank that fuels stationary crop irrigation equipment.

Taxable Energy Source

Dyed diesel fuel is subject to sales and use tax when:

- Used in certain equipment
 - Reefer unit
 - De-watering equipment
 - Diesel powered light tower equipment
 - Diesel powered air compressor

Refer to Sales and Use Tax Regulation 1-089 Energy Source Utility Exemption, for more information.

Taxable Sales Made by Guides/Outfitters May Include:

- Hunting/Fishing packages (private ground)
- Hunting/Fishing memberships
- Trespass fees (allowing access to private ground)

For more information, see [Reg-1-044 Admissions,](#)
[General Information Letter: Admissions-Hunting](#)

- Float trips (canoes, kayaks, tanks, and tubes)

For more information, see [River Outfitters and Rentals Information Guide,](#)
[REG-1-018 Rent or Lease of Tangible Personal Property](#)

- Overnight accommodations

For more information, see [Reg-1-046 Hotels, Lodgings, and Accommodations,](#)
[Lodging Tax Information Guide](#)

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