

REG-1-094, Agricultural Machinery and Equipment

*** Legislation has excluded tractor models that are not certified for sale in Nebraska from this exemption, operative July 19, 2012. Legislation has also expanded this exemption to include all repair and replacement parts for agricultural machinery and equipment; operative October 1, 2014. This regulation is currently undergoing review for amendment (Neb. Rev. Stat. § 77-2704.36).**

094.01 For the purposes of this regulation, the following definitions will be used.

094.01A Agricultural machinery and equipment shall mean tangible personal property that is used directly in the cultivating or harvesting of a crop, the raising or caring for animal life, or the collecting or processing of an agricultural product on the farm or ranch.

094.01A(1) Agricultural machinery and equipment does not include office equipment, registered or unregistered motor vehicles, well-drilling equipment, handling or processing equipment for agricultural products not on a farm or ranch, or any building or fixture.

094.01B Commercial agriculture is the business of producing food products, or other useful and valuable crops, or raising animal life. The crops or animal life can either be sold or used by the grower to produce other products for sale. Commercial agriculture includes commercial production in greenhouses, nurseries, tree farms, sod farms, and feedlots. Commercial agriculture does not include storage of products off the farm or in commercial elevators, or animal life in stockyards or sale barns.

094.01C Depreciable agricultural machinery and equipment means agricultural machinery and equipment that has a determinable life of longer than one year.

094.01D Purchase is a transfer of title or possession for a consideration. The purchase may occur by sale, conditional sale, sale at auction, or a lease or rental for thirty days or more.

094.02 The purchase of depreciable agricultural machinery and equipment is exempt from the Nebraska and local option sales and use tax if the agricultural machinery and equipment purchased meets all of the following criteria. If any of the criteria are not met, the purchaser is not entitled to an exemption:

094.02A The item purchased is agricultural machinery and equipment;

094.02B It is used in commercial agriculture; and

094.02C The purchaser properly completes a Nebraska Resale or Exempt Sale Certificate, Form 13, Section B.

094.03 Sales of repair and replacement parts for agricultural machinery and equipment used in commercial agriculture are taxable. Charges for labor to repair agricultural machinery and equipment are not taxable provided the charges are separately itemized on the billing invoice.

094.03A The tax paid on purchases of depreciable repair and replacement parts is eligible for a refund, including the tax paid on the related repair or maintenance labor charges.

094.04 Charges for labor to repair a building, structure, or fixture used in commercial agriculture are taxable.

094.05 Personal property tax must be paid on qualified agricultural machinery and equipment and depreciable repair parts, even if sales tax is paid on the item.

(Sections 77-2708, and 77-2708.01, R.R.S. 2003. July 16, 2005.)