

## Nebraska Agricultural Machinery and Equipment Sales Tax Exemption

### Overview

Purchases and leases of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use taxes when purchased or leased for direct use in commercial agriculture. However, farmers and ranchers are **not** exempt from sales or use tax on other equipment, supplies, and services they purchase and use in the course of doing business.

Personal property tax is due on depreciable agricultural machinery, equipment, and repairs regardless of whether or not sales or use tax was paid on the machinery or equipment.

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### Terms

**Agricultural Machinery and Equipment.** Agricultural machinery and equipment means tangible personal property, regardless of the degree of attachment to real property that is used **directly** in:

- 1 Cultivating or harvesting a crop;
- 2 Raising or caring for animal life;
- 3 Protecting the health and welfare of animal life, including fans, curtains, and climate control equipment within livestock buildings; or
- 4 Collecting or processing an agricultural product on the farm or ranch.

**Animal Life.** Animal life means any form of animal life the products of which ordinarily constitute food for human consumption or the pelts of which are used for human apparel.

**Annexed.** Annexed means attached to real estate so that:

- ❖ The property becomes real estate; or
- ❖ The installation or removal of the property requires specialized skills or tools and is performed or supervised by a recognized trade professional.

**Building Materials.** Building materials means any property, including fixtures, that will be annexed to the land or an improvement on the land. Building materials does not include tools, supplies, or any items that will not be annexed.

**Commercial Agriculture.** Commercial agriculture means the business of producing food products or other useful and valuable crops; or raising animal life, the products of which ordinarily constitute food for human consumption or the pelts of which are ordinarily used for human apparel. The crops or animal life may either be sold or used by the producer or 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 storing products off the farm or in commercial elevators, or holding animal life in stockyards or sale barns.

**Contractor.** A contractor means any person who repairs property annexed to real estate, who annexes building materials and fixtures to real estate, or who arranges for the annexation.

**Depreciable Agricultural Machinery and Equipment.** Depreciable agricultural machinery and equipment means agricultural machinery and equipment which has a determinable life of longer than one year.

**Livestock Building.** Livestock building means a building that is designed for and used to house animal life.

**Net Wrap.** Net wrap means plastic wrap used in the baling of hay.

**Used Directly.** Used directly means:

- ❖ For crop production, that the machinery or equipment tills the soil; plants the seeds; harvests the crop; or applies water, fertilizer, or other agricultural chemicals to the land or crop; or preserves a crop in the field;
- ❖ For livestock production, that the machinery or equipment supplies, measures, or applies water, feed, warmth, cooling, comfort, veterinary products or other beneficial chemicals to food-producing or pelt-producing animals; aids in birthing or hatching the animals; or removes waste from the animals' pens; or
- ❖ For both crop and livestock production: the machinery or equipment collects or processes an agricultural product on the farm or ranch, for example, storing or drying grain, processing milk, or handling eggs.

## Sales of Depreciable Agricultural Machinery and Equipment

The sale, lease, or rental of depreciable agricultural machinery and equipment for use directly in commercial agriculture is exempt from Nebraska and local sales and use taxes.

All exempt sales of depreciable agricultural machinery and equipment **must** be supported by a Nebraska resale or exempt sale certificate. Sales of header trailers, head haulers, header transports, and seed tender trailers that are required to be registered for operation on the highways must be supported by a [Nebraska Sales/Use Tax and Tire Fee Statement, Form 6](#), category 9 to be exempt from sales and use taxes. All other exempt sales must be supported by a [Nebraska Resale and Exempt Sale Certificate, Form 13, Section B](#).

Sellers must keep each Form 13 or their copy of each Form 6 with their books and records. The requirement to obtain a Form 13 or Form 6 applies even if the purchaser of the new or used depreciable agricultural machinery and equipment farms or ranches out-of-state.

## Auction Sales

When an auctioneer sells depreciable agricultural machinery or equipment, the auctioneer must charge sales tax, unless the buyer gives the auctioneer a fully completed Form 13. For more information on sales made by auctioneers, please review the [Nebraska Sales and Use Tax for Auction Sales Information Guide](#).

# Leases or Rentals of Depreciable Agricultural Machinery and Equipment

Leases or rentals of depreciable agricultural machinery and equipment are exempt from Nebraska and local sales and use taxes when leased or rented for use directly in commercial agriculture.

Lessors must keep the completed Form 13 with their books and records.

 <p>NEBRASKA Good Life. Great Service. DEPARTMENT OF REVENUE</p>	<h2 style="margin: 0;">Nebraska Resale or Exempt Sale Certificate</h2> <h3 style="margin: 0;">for Sales Tax Exemption</h3>	<p><b>FORM</b> <b>13</b></p>		
<p>I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:  <b>Check One</b>   <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.)</p>				
<p><b>Section B—Nebraska Exempt Sale Certificate</b></p>				
<p>The basis for this exemption is exemption category <u>02</u>. (See the list of Exemption Categories and corresponding numbers on the reverse side).          If exemption category 2 or 5 is claimed, enter the following information:</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black;">Description of Property or Service Purchased <u>Farm machinery</u></td> <td style="width: 50%; border-bottom: 1px solid black;">Intended Use of Property or Service Purchased <u>Commercial agricultural</u></td> </tr> </table>			Description of Property or Service Purchased <u>Farm machinery</u>	Intended Use of Property or Service Purchased <u>Commercial agricultural</u>
Description of Property or Service Purchased <u>Farm machinery</u>	Intended Use of Property or Service Purchased <u>Commercial agricultural</u>			
<p><b>sign here</b> ▶ <u>James Someone</u> Authorized Signature</p>	<p><u>Owner</u> Title</p>	<p><u>10/1/2019</u> Date</p>		

## Repair and Replacement Parts for Agricultural Machinery and Equipment

Purchases of repair and replacement parts used to repair agricultural machinery and equipment used directly in commercial agriculture, are exempt from sales and use taxes. The purchaser is required to issue a fully completed Form 13, Section B, to the seller to exempt the purchase from sales tax. Depreciable repairs must be listed on a personal property return.

Repair and replacement parts include, but are not limited to: items found on a parts list for a given piece of machinery or equipment, including an irrigation system, or the generic equivalent of a listed part. Examples of repair or replacement parts include: antifreeze, batteries, spark plugs, tires, diesel exhaust fluid (DEF), roller chains, and motors.

## Repair Labor on Agricultural Machinery and Equipment

Repair labor on agricultural machinery and equipment is sales tax exempt.

**Example 1.** A farmer hires a local farmers’ cooperative to replace a tractor tire in the field.

Sample invoice:

Tractor tire	\$650 Tax Exempt (E)
Labor	50 E
Shop supplies	5 E
Mileage	<u>+ 25 E</u>
Total due	<u>\$730</u>

The amount billed to the farmer is not taxable provided the cooperative receives a fully completed Form 13, Section B, from the farmer. The cooperative or any other repair facility owes the sales tax on their purchase of the shop supplies. The amounts billed for shop supplies and mileage are not subject to sales tax whether included as part of the labor charge or separately stated on the customer’s invoice. The charges are not taxable because the item repaired is agricultural machinery and equipment and repair labor on agricultural machinery and equipment is not taxable. If the tire sold by the cooperative is new, the cooperative must collect and remit a \$1 tire fee. If the replaced tire is used, no tire fee is due.

## Purchases by Farmers' Cooperatives

A farmers' cooperative may purchase or lease depreciable agricultural machinery and equipment sales tax exempt when the agricultural machinery and equipment will be used by the cooperative directly in commercial agriculture (for example, a rogator used by the cooperative to apply fertilizer on a farmer's crop or the field, anhydrous trailers used with a tank to apply anhydrous ammonia to land or crops in commercial agriculture, or a combine operated by the cooperative in harvesting a farmer's grain).

Other machinery and equipment purchased by a farmers' cooperative are taxable (for example, grain augers that move grain at the co-op, all motor vehicles, and any trailer or semitrailer used to transport seed or chemicals to a farmer's property).

## Purchases by Agricultural Service Providers

A custom harvester, custom applicator, or crop duster may purchase or lease depreciable agricultural machinery and equipment sales tax exempt when the machinery or equipment will be used directly in commercial agriculture (for example, crop dusting airplanes, combines, and fertilizer application equipment). Other machinery and equipment purchased by an agricultural service provider are taxable (for example, motor vehicles, trailers, or semitrailers used to transport seed or chemicals to a farmer's property).

## Baling Wire and Twine

Baling wire and twine are not agricultural machinery or equipment. Sales of baling wire and twine, or baling sleeves are taxable if:

- ❖ Purchased by a farmer or rancher who will not sell the baled product (for example, alfalfa, straw, or prairie hay); or
- ❖ Purchased by a custom baler.

Sales of baling wire and twine are exempt only if it will be subsequently resold with the crop because it was purchased by a farmer or rancher who uses it to contain, cover, or wrap the alfalfa, straw, or prairie hay and sells the baled product. The farmer or rancher can purchase baling wire and twine tax exempt by issuing a properly completed [Form 13](#), Section A, to the seller. If farmer or rancher uses any of baled product that is held for sale, the farmer or rancher owes use tax on the cost of the baling wire or twine used to cover or wrap the baled product.

## Net Wrap

Net wrap purchased before October 1, 2022 is taxed in the same manner as baling wire and twine. See the above Baling Wire and Twine section for additional information.

Beginning October 1, 2022 net wrap used in commercial agriculture is exempt from sales and use taxes. The farmer or rancher can purchase the net wrap tax exempt by issuing a properly completed Form 13, Section B, exemption category 2, to the seller.

## Improvements to Real Estate

An improvement to real estate is real property and does not qualify for the agricultural machinery and equipment exemption.

**Improvements to real estate include, but are not limited to:**

- ❖ Buildings – Free-standing structures, composed of building materials enclosed within a roof and exterior walls and annexed to the land or an improvement on the land. The structure does not have to be enclosed on all sides to constitute a building;
- ❖ Field drain tile;
- ❖ Grain bins; and

- ❖ Building materials – Generally, any property, including fixtures, that are attached to a building that supports, enhances, or adds to the use of the building (for example, electrical panels, ventilation fans, curtains, central air conditioning, heating system, common lighting, and plumbing). Special rules apply to fans, curtains and climate control equipment within livestock buildings.

## Equipment Annexed to an Improvement to Real Estate That Does Not Become Real Property

Equipment that is annexed to real estate or an improvement to real estate for the **purpose** of carrying on a trade or business rather than to improve the real estate itself, is not an improvement to real estate. Fans, curtains, and climate control equipment that protects the health and welfare of animal life within livestock buildings are items that do not become real estate. This type of equipment can qualify for the agricultural machinery and equipment exemption when purchased and installed by an Option 1 contractor. When this type of equipment is purchased and installed by an Option 2 or Option 3 contractor, it cannot qualify for the agricultural machinery and equipment exemption because the law provides that Option 2 and 3 contractors are the consumer of building materials. Other examples include: grain drying equipment attached to a grain bin; wiring from the main electrical panel to the subpanel; and the subpanel for the grain bin drying equipment, irrigation well, and automatic feeding systems for animal life.

The purchase and sale of repair or replacement parts for annexed equipment by an Option 1 contractor are exempt from sales and use taxes. Parts purchased by an Option 2 or Option 3 contractor are taxable because the Option 2 or 3 contractor is the consumer. The Option 2 or Option 3 contractors cannot issue a Form 13 to purchase the parts exempt, even though the parts will be used to repair annexed agricultural machinery and equipment.

**Example 2.** A farmer purchases grain storage bins with conditioning and grain-handling equipment from an Option 1 contractor. Some of the grain-handling equipment qualifies for the agricultural machinery and equipment exemption.

<b>Taxable</b>	<b>Tax Exempt</b>
Grain bins	Auger systems
Ladders and catwalks	Bin sweeps
Roof ventilation systems	Perforated metal support floor installed over the concrete floor in a grain storage facility
Fans and heaters	Stirrator

## Well Drillers: Commercial, Residential, and Agricultural Wells

The taxation of materials and equipment that becomes real estate and property that is annexed to real estate by a well driller is determined by its contractor option.

For additional information relating to the various contractor options available to well drillers, please review the [Nebraska Taxation of Contractors General Information Guide](#), and the [Nebraska Well Drilling and Irrigation Industry Information Guide](#).

## Warranties and Maintenance Agreements

Sales of warranties and maintenance agreements covering agricultural machinery and equipment used directly in commercial agriculture are not subject to sales tax. Any repair and replacement parts furnished under the terms of the agreement are not taxable to the dealer or repairperson. In addition, separately stated charges for repair labor on agricultural machinery and equipment used directly in commercial agriculture are not taxable.

## Persons Not Engaged in Commercial Agriculture

Sales of machinery and equipment to persons not engaged in the business of commercial agriculture are taxable. Persons not “engaged in commercial agriculture” include, but are not limited to:

- ❖ Home gardeners who do not sell their produce for the purpose of making a profit;
- ❖ Lessors whose land is only used for pleasure, hunting, or fishing;
- ❖ Participants in governmental programs that prohibit land from being used in commercial production when all the participant’s land is enrolled in the program; and
- ❖ Veterinarians.

## Improperly Issuing a Form 13

Any purchaser who gives a [Form 13](#) to a retailer for any purchase that is not exempt from sales and use taxes may be assessed a penalty of \$100 or ten times the tax, whichever is greater. If a Form 13 was improperly issued or used by a purchaser, the purchaser must remit Nebraska and applicable local use tax directly to DOR by filing a [Nebraska and Local Business Use Tax Return, Form 2](#), or a [Nebraska and Local Individual Use Tax Return, Form 3](#).

DOR is committed to the fair administration of the tax laws of Nebraska. If someone is fraudulently using the Form 13, it is illegal. You can [report tax fraud](#) by contacting DOR by email, phone, or mail.

## Personal Property Tax

Depreciable agricultural machinery and equipment and depreciable repairs must be listed on a personal property tax return, even if sales tax was paid on the item. For additional information on personal property tax, see the DOR website under [Property Assessment](#). If sales tax was paid on property qualifying for the sales tax exemption, the purchaser may apply for a refund by filing a [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG](#).

## Equipment or Supply Items Purchased Outside Nebraska

If machinery or equipment that is not eligible for the exemption or supply items are purchased outside Nebraska, the purchase is subject to Nebraska use tax when brought into the state.

Any state or local sales tax properly paid in the other jurisdictions will be a credit against the Nebraska and local tax due. In Nebraska, the use tax is imposed at the same rate and on the same transactions as the sales tax. In addition, if the local sales tax is not properly paid on the original purchase, the local use tax is owed.

For more information on use tax, please see the [Nebraska Use Tax Guide](#).

## Machinery and Equipment That is Not Exempt

Machinery or equipment that is not used directly to cultivate, plant, irrigate, apply chemicals, fertilize or harvest a crop, raise or care for animal life, or collect or process an agricultural product on the farm or ranch is not exempt. The following equipment is not used directly in commercial agriculture:

- ❖ Office equipment and well-drilling equipment,
- ❖ Equipment that handles or processes agricultural products that is not on a farm or ranch,
- ❖ Equipment used to maintain the property, for example, equipment to mow under fences, and
- ❖ Equipment used by a retailer of agricultural inputs or equipment to transport the inputs or equipment to the field.

## Items That Qualify for the Agricultural Machinery and Equipment

The following tangible personal property qualifies for the agricultural machinery and equipment exemption provided the machinery and equipment is depreciable, used in commercial agriculture, and is:

- ❖ Used directly for crop production to till the soil; plant seeds; harvest the crop; or apply water, fertilizer, or other agricultural chemicals to the land or crop; or preserves a crop in the field;
- ❖ Used directly for livestock production to supply, measure, or apply water, feed, warmth, cooling, comfort, veterinary products or other beneficial chemicals to food-producing or pelt-producing animals; aids in birthing or hatching the animals; or removes waste from the animal's pens;
- ❖ Used for both crop and livestock production to collect or process an agricultural product on the farm or ranch, for example, storing or drying grain, processing milk, or handling eggs; or
- ❖ Header trailers, head haulers, header transports used to transport combine heads to the field or seed tender trailers used to transport seed to the field.

### Depreciable Machinery and Equipment Used Directly in Cultivating, Planting, or Harvesting a Crop on the Farm or Ranch

Accessories attached to a farm tractor	Hay balers
All-terrain vehicles (ATVs) to apply fertilizer to the crop or field	Hay loaders
Anhydrous tank trailers used to apply fertilizer to the crop or the field	Hay mowers
Bale movers	Hay rakes
Combines	Hillers
Corn heads or other crop head equipment	Planters
Cultivators	Plows
Discs	Portable grain augers
Farm trailers	Portable grain dryers
Fertilizer spreaders, caddies, and applicators	Rotary cutters/shredders
Frost protection fans	Tractor tool bars
Grain-drying equipment – moves or dries the grain (limited to heaters, fan assemblies, augers, perforated floors, and stirrators)	Tractors – and accessories - excluding any current tractor model defined in <a href="#">§ 2-2701.01</a> not permitted for sale in Nebraska under <a href="#">§§ 2-2701 to 2-2711</a>
Grain spreaders	Tractor duals
Harrows	Tractor weights
	Utility-type vehicles (UTVs) used to apply fertilizer to the crop or field

### Depreciable Machinery and Equipment Used Directly in Raising or Caring for Animal Life or Protecting the Health and Welfare of Animal Life the Products of which Constitute Food for Human Consumption or the Pelts of Which are Ordinarily Used for Human Apparel

Aquaculture equipment for raising fish	Fish production equipment, including feeding and seining equipment
ATVs or UTVs used to herd or feed livestock	Free stall cubicle equipment in a dairy barn
Automatic feeders	Hog confinement equipment, for example gestation crates, wing dividers, and gang slats installed on the top of the concrete floor of the building
Bee boxes	Loaders
Earth-moving equipment used to clean feedlots	Loading chutes
Electric fence materials when purchased as a unit that includes the electric fence posts, wire, insulators, electric fencer, and ground rods installed on a temporary basis to hold or contain grazing livestock.	Manure-handling equipment
Portable fans, heaters, and shutters that are not improvements to the real estate	Milking equipment and separators
Fixed fans, curtains, and climate control equipment within livestock buildings	Milk storage equipment
Farrowing crates, pens, and stations	Portable hutches for calves
Feed boxes	Portable sweep pens
Feed wagons	Stock water tanks/troughs
	Working horses

## Irrigation Equipment

Center pivots, including the above or below ground pipe from the wellhead to the center pivot and electrical wire from the electric panel at the well to the center pivot

Center pivot irrigation bridges

Center pivot end-stop devices, including the cross bars, panel, and end-stops

Irrigation well equipment, including pumps, pipe, column tube shafts, oil tube shafts, oil assemblies, heads, couplers, air valves, air valve faucet fittings, pressure gauges, swing check valves, gear heads, flow meters, shafts and covers, electric motors, gas and diesel engines, and electrical wire from the electrical panel to the disconnect electrical panel attached to the motor

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## Vehicles

Anhydrous trailers used with a tank pulled behind a tractor during the process of applying anhydrous ammonia and other agricultural chemicals to the land or crops

Crop-dusting airplanes

Floater

Header trailers

Header transports

Head haulers

Rogators

Seed tender trailers

Terragators

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## Miscellaneous

Global Positioning Systems (GPS) – only the portion that attaches to agricultural machinery and equipment

Scales (used on the farm for a feed grinder, used to weigh livestock, or attached to a feed wagon to weigh feed which is distributed for livestock)

Solar panels generating electricity to power the irrigation pump or center pivot

Tree spades

Windmills for pumping water

## **Items That Do Not Qualify for the Agricultural Machinery and Equipment Exemption**

The following list contains examples of items that do not qualify for the agricultural machinery and equipment.

Acetylene torches	Mobile telephones
Air compressors	Motor vehicles
Antique farm equipment	Nurse tanks (used to fill other tanks that are pulled behind tractors during the process of applying anhydrous ammonia and other agricultural chemicals to the crop or the field within the interior of the field in commercial agriculture)
ATVs or UTVs (used for entertainment or transportation to check on livestock, crops, irrigation systems, fencing, or to take soil samples)	Office equipment, including computers
Baseline GPS (receivers on tractors sold as one unit, individual items not priced)	Power or pressure washers
Chains of any kind	Rebar (used in concrete to make banks, etc.)
Crawlers (used to clean out waterways and vegetation)	Scales, including scales to weigh trucks
Diesel de-geling additives	Semen laboratory equipment, including any semen harvesting and processing equipment
Ear tags regardless of whether attached or implanted into the ear of the animal	Snowblowers
Earth-moving equipment	Tagging guns and branding irons
Equipment used to dehydrate and pelletize alfalfa off the farm or ranch	Tanks (storage or transfer)
Equipment used to install fencing or clear a field	Tanks (used to store oxygen or acetylene)
Excavators	Tarps
Finishing mowers	Tires for equipment other than agricultural machinery and equipment
Fixed fans, curtains, and climate control equipment that are not within a livestock building	Tire chains for motor vehicles
Fork lifts	Tools, including chain saws, post hole diggers, welders, and generators
Fuel tanks and fuel trailers of any kind	Two-way radios (GR 300 Repeaters)
Gasoline additives	Weigh wagons (used to weigh one acre of grain to determine the total amount for the entire acreage)
Ground moisture sensor system	Well-drilling equipment
Hoists	
Hose reel assemblies	
Lawn mowers and lawn tractors	

## **Improvements to Real Estate That Do Not Qualify for the Agricultural Machinery and Equipment Exemption**

The following list includes examples of improvements to real estate that do not qualify as agricultural machinery and equipment.

Bridges	Culverts
Buildings and any property used in the construction of the roof, walls, and floor of the building including fixtures and components that become an integral functioning part of a building. This includes, but is not limited to: air inlets, electrical panels, electrical equipment, electrical wiring, fans, shutters, curtains, air conditioners, water heaters, and furnaces. This does not include fans, curtains, or climate control equipment within livestock buildings.	Grain bag storage units that are enclosed within a roof and walls
	Grain bins
	Grain bin components, including catwalks, concrete, ladders, and vents
	Fences, including fencing materials used to build fences, gates, or panels
	Pond liners
	Water well components, including casing, concrete, and gravel

## Resource list

### Information Guides

- ❖ [Auction Sales](#)
- ❖ [Governmental Entities](#)
- ❖ [Well Drillers and Irrigation Industry](#)

### Nebraska Sales and Use Tax Regulations

- ❖ [Reg-1-012, Exemptions](#)
- ❖ [Reg-1-014, Exempt Sale Certificate](#)
- ❖ [Reg-1-017, Contractors](#)
- ❖ [Reg-1-074, Warranties and Guarantees](#)
- ❖ [Reg-1-094, Agricultural Machinery and Equipment](#)

### Nebraska Statutes

- ❖ [Neb. Rev. Stat. 77-2704.36](#). Agricultural machinery and equipment; exemption. (LB 595 - Operative October 1, 2021)
- ❖ [Neb. Rev. Stat. 77-2704.64](#). Repair or replacement parts for agricultural machinery and equipment used in commercial agriculture; exemption.

### Forms

- ❖ [Nebraska Sales/Use Tax and Tire Fee Statement, Form 6](#)
- ❖ [Nebraska Sales and Use Tax Refund Claim for Agricultural Machinery and Equipment Purchases or Leases, Form 7AG](#)
- ❖ [Nebraska Resale or Exempt Sale Certificate, Form 13](#)

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