

RETAIL SALES OF WOOD AND CORN AS FUEL

Issue:

Are sales and purchases of wood used as a fuel source or corn used as a fuel source subject to sales or use tax?

Conclusion:

Beginning April 1, 2009, [Neb. Rev. Stat. § 77-2704.13](#) provides that sales and use taxes shall not be imposed on sales and purchases of wood used as a fuel source or corn used as a fuel source when more than 50% of the amount purchased is used directly:

- In manufacturing or processing;
- In refining;
- In the generation of electricity;
- In irrigation;
- In farming; or
- By any hospital.

Definitions:

Manufacturing or Processing. Manufacturing or processing is an action or series of actions performed upon tangible personal property, either by hand or machine, which results in that tangible personal property being reduced or transformed into a different state, quality, form, property, or thing. Processing includes grain drying and feed grinding in a commercial facility, and the freezing of food products. Processing or manufacturing does not include repair of property, erection of buildings, cold storage of food products, or preparation of food for immediate consumption.

Refining. Refining is the action or process of removing impurities from crude or impure materials, such as glass, metal, sugar, and petroleum products. Refining includes the extraction of gas and petroleum products.

Irrigation. Irrigation is the application of water to lands for raising agricultural crops.

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

NOTE: Energy consumed by on-farm grain storage and processing is considered to be consumed in farming.

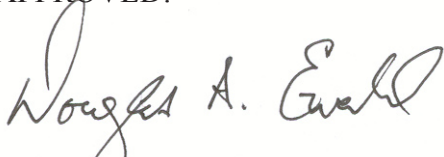
Analysis:

[Neb. Rev. Stat. § 77-2704.13](#) was amended by [Legislative Bill 9](#) during the 2009 Legislature to expand the exemption for energy sources to include the sale and purchase of wood (e.g., sawdust, wood chips, and wood pellets) or corn (e.g., dry shelled corn) used as fuel. Sales and purchases of electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, gasoline, coke, nuclear fuel, butane, and compressed fuel that includes compressed natural gas and liquefied petroleum gas (propane) continue to be exempt when more than 50% of the amount purchased is used or directly consumed in manufacturing, processing, refining, the generation of electricity, irrigation or farming, or by any hospital.

The sale or purchase of wood or corn for use as an energy source is exempt from sales and use taxes, provided the following conditions are met:

1. More than 50% of the wood or corn sold or purchased is used or directly consumed in manufacturing, processing, refining, the generation of electricity, irrigation or farming, or by any hospital; and
2. The purchaser gives the seller a completed [Nebraska Energy Source Exempt Sale Certificate, Form 13E](#).

APPROVED:



Douglas A. Ewald
Tax Commissioner

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