



Special Notice

STATE BOARD
OF EQUALIZATION

August 2001

New Sales and Use Tax Exemptions Take Effect September 1, 2001 for Qualified Sales and Purchases of

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The recent approval of the 2001-2002 California Budget included Assembly Bill 426, a "Budget Trailer" bill that provides a number of new sales and use tax exemptions. The following information explains the provisions of the bill.

FULL TAX EXEMPTION

1. Liquefied Petroleum Gas (LPG)

Beginning September 1, 2001, qualified sales and purchases of liquefied petroleum gas* for use in households or for producing and harvesting agricultural products are exempt from the California sales and use tax. To qualify for exemption, the LPG must be delivered into a tank with a capacity of 30 gallons or more. Delivery into tanks with a capacity less than 30 gallons does not qualify even if the total LPG delivered exceeds 30 gallons.

Household use. To meet the requirements for exemption, the seller must deliver the LPG to a qualified residence for household use. A *qualified residence* is defined as a primary residence not serviced by gas mains and pipes. Delivery to a customer's vacation home, or other secondary residence does not qualify for exemption.

Agricultural use. To be exempt, the LPG must be purchased by a qualified person for use in producing and harvesting agricultural products. A *qualified person* is defined as a person engaged in the business of producing and harvesting agricultural products as described under Codes 0111 to 0291 of the Standard Industrial Classification (SIC) Manual (1987 Edition) and any other person who assists that qualified person. Examples of industries under those SIC codes include vegetable growers, nut and fruit orchards, sod farms, ornamental flower growers, beef cattle feedlots, egg production facilities, and dairies.**

(Christmas tree farms are not included under these SIC codes and do not qualify for the LPG exemption.) An example of someone who assists a qualified person would be a contract harvester who harvests a crop for a grower.

Exemption Certificates. To qualify for the household use exemption, your sale must be supported by a timely exemption certificate completed by the purchaser certifying that he or she is purchasing the LPG for use in his or her primary residence not serviced by gas mains or pipes. To qualify for the LPG agricultural use exemption, your sale must be supported by a timely exemption certificate completed by the purchaser certifying that he or she is engaged in business in an industry described in SIC codes 0111 to 0291 or that he or she assists such persons. The purchaser must also certify that the LPG will be used primarily in producing and harvesting agricultural products.

Unfortunately, there was not sufficient space in this Notice to include a sample LPG exemption certificate. Please see article 6, "Exemption Certificates - in General" (page 3) for general information on certificate requirements. A sample LPG certificate will soon be available on our website or through our Information Center.

* *Liquefied petroleum gas* chiefly consists of liquid propane and butane.

** For a complete listing of SIC codes, visit the US Department of Labor OSHA website at www.osha.gov.

Call us or go online for assistance.

- Call 1-800-400-7115 during working hours to speak to a representative.
- Visit our website, www.boe.ca.gov (click on "Tax News," then "Important and Special Notices").
- Visit the State legislation website, www.leginfo.ca.gov for information on AB 426.

PARTIAL TAX EXEMPTION

Sales, purchases, and leases described on pages 2 and 3 are exempt only from the state general fund portion of the total sales and use tax rate. The state general fund portion is currently 4.75%.

2. Racehorse Breeding Stock

Beginning September 1, 2001, qualified sales and purchases (including leases) of racehorse breeding stock are entitled to an exemption from the state general fund portion of the tax rate (currently 4.75%). *Racehorse breeding stock* means a racehorse that is capable of reproduction and for which the purchaser's sole intent is to use the racehorse for breeding purposes.

What records do I need to keep?

You should retain documentation that shows the horse is a racehorse capable of reproduction. For example, records that show the racehorse is registered with a breed organization for racing and veterinary records documenting the horse is capable of reproduction. In addition, your sale must be supported by a timely partial exemption certificate completed by the purchaser certifying he or she intends to use the racehorse solely for breeding purposes. For your convenience, we have provided a sample partial exemption certificate that you may use to support your transactions (see page 4). Article 6, "Exemption Certificates - in General" (page 3) provides a listing of general certificate requirements.

3. Commercial Timber Harvesting Equipment and Machinery

Beginning September 1, 2001, qualified sales and purchases (including leases) of equipment and machinery designed primarily for off-road use in commercial timber harvesting operations are exempt from the state general fund portion of the tax rate (currently 4.75%). The equipment and machinery may be either new or used. Lease payments must be made after September 1, 2001 to qualify. The partial exemption also applies to sales and purchases of component repair and replacement parts for the equipment or machinery.

The following definitions will help you determine if your sales or purchases meet the exemption requirements:

- *Timber* means trees of any species harvested for forest products. Timber includes Christmas trees.
- *Commercial timber harvesting* involves the cutting or removal, or both, of timber from timberlands for the purpose of buying and selling timber products.
- *Timberland* means privately or publicly owned land which is devoted to and used for growing or harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

To qualify for the partial exemption (1) the purchaser must be engaged in commercial timber harvesting, (2) the equipment and machinery must be designed primarily (50 percent or

more) for off-road use in commercial timber harvesting operations, and (3) the equipment and machinery must be primarily used in harvesting timber. Examples of equipment that would generally be eligible for the partial exemption include

- Skidders: move logs from the forest to the logging trucks
- Loaders: load logs onto logging trucks
- Feller-bunchers: cut small trees with a shear
- Yarders: harvest trees on very steep slopes
- Chippers: chip small trees and brush into small pieces
- Slashers: cut felled trees into predetermined lengths
- Chainsaws: cut down trees

In addition, your sale must be supported by a timely partial exemption certificate completed by the purchaser certifying that he or she is engaged in commercial timber harvesting. For your convenience, we have provided a sample partial exemption certificate that you may use to support your transactions (see page 4). Article 6, "Exemption Certificates - in General" (page 3) provides a listing of general certificate requirements.

4. Farm Equipment and Machinery

Beginning September 1, 2001, qualified sales and purchases (including leases) of farm equipment and machinery for use primarily in producing and harvesting agricultural products are exempt from the state general fund portion of the tax rate (currently 4.75%). The equipment and machinery may be either new or used. Lease payments must be made after September 1, 2001 to qualify. The partial exemption also applies to sales and purchases of component, repair, and replacement parts for the equipment or machinery.

The following definitions will help you determine if your sales meet the partial exemption requirements:

- *Qualified person* means a person engaged in the business of producing and harvesting agricultural products as described under Codes 0111 to 0291 of the Standard Industrial Classification (SIC) Manual (1987 Edition) and any other person who assists that qualified person. Examples of industries under those SIC codes include vegetable growers, nut and fruit orchards, sod farms, ornamental flower growers, beef cattle feedlots, egg production facilities, and dairies.* (Christmas tree farms are not included under these SIC codes and do not qualify for the *farm* equipment exemption. However, see article 3, "Commercial Timber Harvesting Equipment and Machinery"). An

* For a complete listing of SIC codes, visit the U.S. Department of Labor OSHA website, www.osha.gov.

PARTIAL TAX EXEMPTION (CONTINUED)

example of someone who assists a qualified person would be a contract harvester who harvests a crop for a grower.

- *Farm equipment and machinery* means “implements of husbandry” as defined in Revenue and Taxation Code section 411. Such property includes any tool, machine, equipment, appliance, device or apparatus used in the conduct of agricultural operations. Examples include combines, harrows, irrigation and milking equipment, and farm tools such as rakes and hoes.
- *Farm equipment and machinery* also includes property defined in Vehicle Code sections 36000, 36005, and 36015. These types of vehicles are used exclusively in the conduct of agricultural operations. Examples include farm tractors, spray or fertilizer applicator rigs, row dusters, and trailers with no beds designed and used solely for transporting a hay loader or swather. Vehicles primarily designed for the transportation of persons or property on a highway would not qualify for exemption.
- *Primarily* means 50% or more. To qualify for the partial exemption, the equipment or machinery must be used primarily in producing and harvesting agricultural products.

In addition, your sales must be supported by a partial exemption certificate completed by the purchaser certifying that he or she is engaged in business in an industry described in SIC 0111 to 0291 or that they assist such persons. The purchaser must also certify that the property will be used primarily in producing and harvesting agricultural products. For your convenience, we have provided a sample partial exemption certificate that you may use to support your transactions (see page 4). Article 6, “Exemption Certificates - in General” (next column) provides a listing of general certificate requirements.

5. Diesel Fuel Used in Farming Activities and Food Processing

Beginning September 1, 2001, sales and purchases of diesel fuel used in farming activities and food processing are exempt from the state general fund portion of the tax rate (currently 4.75%).

The following definitions will help you determine if your sales meet the requirements for the partial exemption:

- *Farming activities* has the same meaning as *farming business* as set forth in Section 263A of the Internal Revenue Code. *Farming business* means a business involving the cultivation of land or the raising and harvesting of any agricultural or horticultural commodity. Examples include operating nurseries and sod farms, raising and harvesting fruit and nut trees or other crops, and the raising of livestock and poultry.

- *Farming activities* also includes the transportation and delivery of farm products to the marketplace. Examples of transporting farm products to the marketplace would include a farmer delivering his or her produce to a farmer’s market for retail sale, or a rancher delivering his or her chickens to a poultry processing plant.

The partial exemption also applies to sales or purchases of diesel fuel used to operate equipment used in farming activities such as chicken and pig brooders, irrigation pumps, and crop drying equipment.

To qualify for the partial exemption, your sales must be supported by a partial exemption certificate completed by the purchaser certifying the diesel fuel will be used in qualified farming activities or food processing. For your convenience, we have provided a sample partial exemption certificate that you may use to support your transactions (see page 4). The following, “Exemption Certificates - in General” provides a listing of general certificate requirements.

6. Exemption Certificates—in General

Sales and Use Tax Regulation 1667, *Exemption Certificates*, provides that when the form of an exemption certificate is not prescribed by regulation, any document, such as a letter, may be used to document the transaction provided it includes the following information:

- Date
- Signature of the purchaser or purchaser’s agent or employee
- Name and address of the purchaser
- Purchaser’s seller’s permit number, or a notation that a permit is not required and why
- Description of the property being purchased
- Statement of the manner in which the property will be used so as to make the sales tax inapplicable to the sale

For purposes of the racehorse breeding stock, commercial timber harvesting equipment and machinery, farm equipment and machinery, and diesel fuel partial exemptions, we have created a sample “Certificate for Partial Exemption” on page 4. Instead of requiring an exemption certificate for each transaction, a qualified person may issue a blanket certificate with a description of the items being purchased. A general partial exemption certificate (with lines for specific purchases) will soon be available on our website. The proposed partial exemption certificates are only a draft and may appear different when incorporated into the Board’s final regulations regarding these partial exemptions.

You are required to keep completed exemption certificates in your records for four years from the date of the sale.

Certificate for Partial Exemption

(Please note: This certificate is a draft and may appear different when incorporated into our regulations.)

Qualified Sales and Purchases of Farm Equipment and Machinery • Commercial Timber Harvesting Equipment and Machinery Diesel Fuel for Farming Activities and Food Processing • Racehorse Breeding Stock

Please Note: This is an exemption only from the state general fund portion of the sales and use tax rate (currently 4.75%). You are not relieved from your obligations for the local and district taxes on this transaction. This partial exemption also does not apply to any tax levied pursuant to Section 6051.2 and 6201.2 of the Revenue and Taxation Code, or pursuant to Section 35 of article XIII of the California Constitution. This partial exemption also applies to lease payments made on or after September 1, 2001, for tangible personal property even if the lease agreement was entered into prior to September 1, 2001.

I hereby certify that I purchased or leased from:

SELLER'S NAME

SELLER'S ADDRESS (*street, city, state, zip code*)

the following tangible personal property, which qualifies for the partial tax exemption checked below.

Description of tangible personal property purchased: _____

Please check applicable exemption box below:

- Farm Equipment and Machinery (and the parts thereof)** — I hereby certify that I am engaged in business in an industry described in Codes 0111 to 0291 of the Standard Industrial Classification Manual or that I assist such classified persons. I further certify that the property purchased will be used primarily in producing and harvesting agricultural products in accordance with Revenue & Taxation Code Section 6356.5.
- Commercial Timber Harvesting Equipment and Machinery (and the parts thereof)** — I hereby certify that I am engaged in commercial timber harvesting, that the property purchased is primarily designed for off-road commercial timber harvesting, and that the property will be primarily used in timber harvesting in accordance with Revenue & Taxation Code 6356.6.
- Diesel Fuel Used in Farming Activities and Food Processing** — I hereby certify that the diesel fuel will be used in qualified farming activities or food processing in accordance with Revenue & Taxation Code Section 6357.1.
- Racehorse Breeding Stock** — I hereby certify that it is my intent to use the racehorse solely for breeding purposes in accordance with Revenue & Taxation Code Section 6358.5. I further certify that I have confirmed the racehorse is capable of reproduction.

I understand that if such property is not used in the manner qualifying for the partial exemption, or if I am not a qualified person, that I am required by the Sales and Use Tax Law to report and pay the state tax measured by the sales price/rentals payable of the property to/by me.

PRINT NAME		TITLE	
SIGNATURE		DATE	
TELEPHONE NUMBER	COMPANY NAME	PERMIT NUMBER (<i>if applicable</i>)*	
ADDRESS	CITY	STATE, ZIP	

*In California, you are required to hold a seller's permit if you are engaged in the business of selling tangible personal property that is subject to tax when sold at retail. If you are not required to hold a seller's permit because you make no sales or leases of this type of property in California, please enter "not applicable" and the reason why you are not required to hold a permit.