

**EXCISE & SALES TAX EXEMPTION GUIDE
FOR FARMERS
IN MASSACHUSETTS**

**A publication of
Massachusetts Farm Bureau Federation**

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IMPORTANT NOTICE

The information contained in this booklet is an effort to provide basic information regarding sales and use tax exemptions that are allowed to farmers in Massachusetts. It is based on current laws and regulations, which are subject to change. The following information is intended as a guide only. Massachusetts Farm Bureau does not provide legal counsel or advice and is not liable for any outdated, erroneous or misinterpreted information contained herein.

EXCISE & SALES TAX EXEMPTION GUIDE FOR FARMERS	4
EXCISE TAX EXEMPTIONS	4
Farm Animals and Machinery	4
Form F.A.E.-M.E.	5
Gasoline	5
Chapter 64A: Section 7A. Reimbursement to farm users of gasoline.....	5
Form GT-9A Gasoline Refund Application.....	5
Special Fuels.....	5
Chapter 64E: Section 5. Reimbursement of excise paid	5
Form SFT-9 Special Fuels Refund Application	6
Motor Vehicles	6
Chapter 90: Section 1. Definitions	6
Chapter 60A: Section 1. Excise tax on motor vehicles	7
Form 126-MVE.....	7
Excise Tax Table	7
SALES TAX EXEMPTIONS.....	7
Chapter 64H: Section 6 Exemptions.....	8
Directive 92-2.....	9
Directive 99-8.....	9
LR 85-64	9
Form ST-12 Exempt Use Certificate.....	10
Sales Tax Table	10
Sales Tax Resale.....	10
Form ST-4 Sales Tax Resale Certificate	10

EXCISE & SALES TAX EXEMPTION GUIDE FOR FARMERS

There are some exemptions or reduced rates from Massachusetts excise and sales taxes for persons engaged in agriculture. The laws authorizing the exemptions or reductions are found in Chapter 59: Section 8A, Chapter 60A, Chapter 64A: Section 7A, Chapter 64E, and Chapter 64H: Section 6.

This booklet is broken down into two sections. One is excise taxes and the other is sales taxes.

EXCISE TAX EXEMPTIONS

Farm Animals and Machinery

Excise Tax (\$5 per \$1000 of value) may be paid by unincorporated businesses in lieu of Personal Property Tax (generally a much higher rate) on farm implements and animals. You must be principally engaged in agriculture to be eligible for this reduced rate.

The law states: **Chapter 59: Section 8A. Assessments; abatement; collection; voter approval to not impose excise**

Section 8A. Any person, not including a corporation, engaged principally in agriculture, who owns farm machinery and equipment, other than motor vehicles and trailers which are exempt under clause Thirty-fifth of section five, or mules, horses, neat cattle, swine, sheep, goats, domestic fowl or mink, which are not exempt under clause Twenty-first of section five, and any individual under eighteen years of age who owns and raises any such animals or fowl in connection with an agricultural youth program, including but not limited to the 4H Clubs and Future Farmers of America, which are not exempt under said clause Twenty-first of section five, shall annually, on or before March first, make a return on oath to the assessors of the town where such machinery and equipment or such animals and fowl are located, setting forth the make, age, model, if any, and purchase price of such machinery and equipment and the number and kind of each class of such animals and fowl owned by him on the next preceding January first. For the purposes of this section the term "equipment" shall include plastic covered greenhouses used for agricultural, horticultural or floricultural purposes, which are not constructed upon a concrete foundation. If the assessors are satisfied of the truth of the return they shall assess such machinery and equipment and such animals and fowl at the rate of five dollars per one thousand dollars of valuation, as determined by the commissioner of revenue, of such machinery and equipment and of each class and kind of such animals and fowl, and such persons shall be otherwise exempt from taxation on these classes of property under this chapter.

If an owner, as described in the first paragraph, fails to make a return within the time provided therein, the assessors may abate a tax otherwise imposed by this chapter if he provides the assessors with a reasonable excuse for failure to file such return as aforesaid, and if a return is filed on or before October thirty-first of the year to which the tax relates; but no abatement hereunder shall reduce the tax otherwise imposed to an amount less than the sum of the excise imposed by this chapter plus fifty per cent thereof. No tax shall be due if the actual tax due is less than ten dollars.

The excise imposed hereunder shall be committed by the board of assessors to the collector of taxes together with their warrant for the collection thereof in the same manner as real and personal property taxes assessed under this chapter. The collector shall notify the person assessed of the amount of the excise in the manner provided in section three of chapter sixty. For the collection of the excise assessed under this section the collector shall have all the remedies provided by chapter sixty. The excise assessed

shall be due and payable on October first of the year assessed, and if not paid on or before November first of the year of assessment, or within thirty days after notification of said excise if said notice is given after October first, shall bear interest as provided in section fifty-seven of chapter fifty-nine.

[Paragraph added by 2008, 310, Sec. 2 effective August 14, 2008.]

The local appropriating authority, as defined in section 21C, may, by a two-thirds vote, seek voter approval to not impose the excise established by this section.

Form F.A.E.-M.E. (Application for Excise on Farm Animals Machinery and Equipment) is used for this and must be filed with your local assessor's office by March 1 of each year. This form is available at your assessor's office or through the MFBF office. It is not available for free online. The values for farm animals for the purpose of the Farm Animal Excise Tax imposed by Chapter 59, §8A are established each year by the Department of Revenue. The values are available through this office or online at: <http://www.mass.gov/Ador/docs/dls/bla/farmland/fy09/fy09animalexexcise.pdf>.

Gasoline

There is a reimbursement allowed on the excise tax paid on gasoline used for farm purposes. The law states:

Chapter 64A: Section 7A. Reimbursement to farm users of gasoline

Section 7A. Any person engaged in the business of farming who shall buy any fuel on which an excise has been paid or is chargeable under this chapter and who, having consumed the same for farm purposes and is entitled to a refund of the federal gasoline tax paid on account of such fuel pursuant to section sixty-four hundred and twenty of the Federal Internal Revenue Code shall be reimbursed the amount of said excise in the manner and subject to the conditions herein provided. Claim for reimbursement of said excise with respect to fuel used during the taxable year for which such refund of the federal gasoline tax is due shall be filed on or before the fifteenth day of the fourth month following the close of such taxable year. Such claim shall be on a form prescribed by the commissioner. The commissioner shall transmit all claims approved by him to the comptroller for certification, and the amount approved by the commissioner and certified as aforesaid shall be paid forthwith from the proceeds of the excise tax levied under this chapter without specific appropriation.

Form GT-9A Gasoline Refund Application for Those Engaged in the Business of Farming is used to apply for the refund. The application is filed with the MA Department of Revenue. This form is available online at http://www.mass.gov/Ador/docs/dor/Forms/MiscForm/PDFs/GT_9A.pdf or by calling our office. Detailed records must be kept. Excise tax is currently \$.21 per gallon.

Special Fuels

There is also a reimbursement allowed on the excise tax paid on special fuels used for farm purposes. The law states:

Chapter 64E: Section 5. Reimbursement of excise paid; procedure, etc.

Section 5. Any person who shall buy any special fuels on which an excise has been paid or is chargeable under this chapter, and shall consume the same in any manner except in the operation of motor vehicles upon or over highways, whether or not such vehicles are registered under the provisions of section five of chapter ninety, shall be reimbursed the amount of said excise in the manner and subject to the conditions hereinafter set forth; provided, however, that any turnpike constructed by the Massachusetts Turnpike

Authority in accordance with chapter three hundred and fifty-four of the acts of nineteen hundred and fifty-two, as amended, shall not be considered a highway for the purposes of this chapter until such turnpike shall have become a part of the state highway system as provided in section seventeen of said chapter three hundred and fifty-four. All claims for reimbursement shall be for not less than one dollar, shall be made by affidavit in such form and containing such information as the commission shall prescribe, shall be accompanied by original invoices or sales receipts of special fuels and in the case of claims for reimbursement for tax on special fuels consumed on said turnpike, shall be made with respect to a calendar half year and shall be accompanied by the toll receipts given to users of said turnpike or invoices rendered to such users by said Authority. All claims for reimbursement shall be filed with the commissioner within two years from the date of purchase or invoice of special fuels. Such toll receipts given to users of said turnpike or invoices rendered to such users by the said Authority shall be accepted by the commissioner as evidence of the use on said turnpike of special fuels in the proportion of one gallon for each fifteen miles of indicated travel by passenger cars, ambulances, hearses, motorcycles and light trucks, and in the proportion of one gallon for each five miles of indicated travel by all other trucks and buses. No claims for reimbursement for tax on special fuels consumed on said turnpike shall be allowed unless it shall appear from said toll receipts or invoices and from said invoices or sales receipts of special fuels that the purchase of the special fuels which is the basis for the claim of reimbursement took place on the same or any one of the three preceding calendar days as the travel on said turnpike or unless evidence satisfactory to the commission is furnished that such special fuels were transferred from bulk to the vehicle tank within the same period. The commissioner may require such further information as he shall deem necessary for the determination of such claims, and shall transmit all claims approved by him to the comptroller for certification; and the amount approved by the commissioner and certified as aforesaid shall be paid forthwith from the proceeds of the excise tax levied under this chapter, without specific appropriation.

Reimbursement under this section shall include special fuels bought by any person engaged in the business of farming on which an excise has been paid or is chargeable under this chapter where such special fuel is consumed for farm purposes and is eligible for refund of the federal special fuels tax paid on account of such fuel pursuant to section sixty-four hundred and twenty of the Federal Internal Revenue Code.

Form SFT-9 Special Fuels Refund Application is used to apply for the refund. This form is available online at http://www.mass.gov/Ador/docs/dor/Forms/MiscForm/PDFs/SFT_9.pdf or through our office. This application is also filed with the MA Department of Revenue. Current excise rate is \$.21 per gallon.

Motor Vehicles

There is an exemption for the motor vehicle excise tax for vehicles with farm plates. Farm tractors and farm trailers, although able to use farm plates, are not subject to the motor vehicle excise tax as they do not meet the criteria in the definition of motor vehicles in the statute. Tractors are not designed for paved roads or for speeds greater than 12 MPH. They are taxed as personal property or farm machinery.

The definitions are found in Chapter 90:

Chapter 90: Section 1. Definitions

“Motor vehicles”, all vehicles constructed and designed for propulsion by power other than muscular power including such vehicles when pulled or towed by another motor vehicle, ...except ...vehicles used for other purposes than the transportation of property and incapable of being driven at a speed exceeding twelve miles per hour and which are used exclusively for the building, repair and maintenance of highways or designed especially for use elsewhere than on the travelled part of ways, ...

“Trailer”, any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle. It shall not include ...farm machinery or implements when used in connection with the operation of a farm or estate, nor any vehicle when towed behind a farm tractor and used in connection with the operation of a farm or estate.

The relevant sections for agriculture are:

Chapter 60A: Section 1. Excise tax on motor vehicles; assessment and levy; exemptions; abatement for theft of motor vehicle

Section 1.Motor vehicles or trailers owned or controlled by a manufacturer, or farmer to whom has been issued a general distinguishing number or mark under section five of chapter ninety, and trailers owned or controlled by a dealer to whom there has been issued a general distinguishing number or mark, shall be exempt from the excise imposed by this section, upon application in writing filed with the assessors, if and so long as such motor vehicle or trailer is operated or propelled over the highways solely in connection with the business of the owner or controller as such manufacturer or farmer and in no way for his personal use or convenience or the personal use and convenience of his family or any other person; provided, that such application shall contain a statement subscribed under penalties of perjury by such owner or controller to the effect that such motor vehicle or trailer is and will be operated or propelled only in the manner aforesaid; and provided further that if any such motor vehicle or trailer is operated or propelled otherwise than in the manner aforesaid, there shall be assessed and levied on such motor vehicle or trailer the excise imposed by this chapter, and a penalty of one hundred dollars, which excise and penalty shall be assessed by the assessors and collected by the collectors of taxes, nor shall such excise be abated by reason of any subsequent transfer of such motor vehicle or trailer.

Form 126-MVE is used to apply for the abatement. The form is filed with your local board of assessors. It is available online at: http://www.mass.gov/Ador/docs/dls/publ/forms/mvmanufacturers_farmers.pdf or by calling this office. The abatement must be filed within 3 years after the date the excise was due, or 1 year after the excise was paid, whichever is later.

The vehicle can not be used at all for personal use or the owner is subject to the tax and a \$100 penalty.

Excise Tax Table

Exemption/Reduced Tax On:	Form Required:	Where To File:
Farm Animal and Machinery	F.A.E.-M.E.	Local Board of Assessors
Gasoline	Form GT-9A	MA Department of Revenue
Special Fuels (Diesel, Propane)	Form SFT-9	MA Department of Revenue
Motor Vehicles with Farm Plates	Form 126-MVE	Local Board of Assessors

SALES TAX EXEMPTIONS

Chapter 64H exempts from the sales tax livestock, poultry, feed, bags to contain the feed, fertilizer, insecticides, fungicides, seed inoculants, seed disinfectants and plant hormones. The law also exempts plants that are suitable for planting to produce food for human consumption, materials, tools and fuel, which are consumed and used directly and exclusively in agricultural production, and machinery that is used directly and exclusively in agricultural production. The entire law is available at: www.mass.gov/legis/laws/mgl/64h-6.htm

The relevant sections for agriculture are:

Chapter 64H: Section 6 Exemptions

Section 6. The following sales and the gross receipts therefrom shall be exempt from the tax imposed by this chapter:--

Paragraph (p)

- (1) Sales of livestock and poultry of a kind which ordinarily constitute food for human consumption;
- (2) sales of feed, including the bags in which the feed is customarily contained, for livestock and poultry of a kind which ordinarily constitute food for human consumption or are to be sold in the regular course of business or for animals produced for research, testing, or other purposes relating to the promotion or maintenance of the health, safety or well being of human beings or animals or for fur-bearing animals, the pelts of which are sold in the regular course of business;
- (3) sales of fertilizer, including ground limestone, hydrated lime, insecticides, fungicides, seed inoculants, seed disinfectants and plant hormones, as well as other substances commonly regarded in the same category and for the same use; and
- (4) sales of plants, including parts of plants, suitable for planting to produce food for human consumption or when such plants, including parts thereof or the produce thereof, are to be sold in the regular course of business, including such items as seed potatoes, onion sets, asparagus roots, berry plants or bushes, and fruit trees.

Paragraph (q)

- (1) Sales of both returnable and nonreturnable containers when sold without the contents together with the container;
- (2) containers when sold with the contents if the sale price of the contents is not required to be included in the measure of the taxes imposed by this chapter;
- (3) returnable containers when sold with the contents or resold for refilling. As used in this paragraph the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable" containers. Nothing in this paragraph shall be construed so as to tax the sale of bags in which feed for livestock and poultry is contained.

Paragraph (r)

Sales of materials, tools and fuel, or any substitute therefor, which become an ingredient or component part of tangible personal property to be sold or which are consumed and used directly and exclusively in agricultural production; in commercial fishing; in the furnishing of gas, water, steam or electricity when delivered to consumers through mains, lines or pipes; in the production of animals for research, testing, or other purposes relating to the promotion or maintenance of the health, safety or well being of human beings or animals.

For the purpose of this paragraph, the raising of poultry and livestock shall be construed to be included in the term "agricultural production"; any material, tool or fuel shall be construed to be consumed and used only if its normal useful life is less than one year or if its cost is allowable as an ordinary and necessary business expense for federal income tax purposes.

Paragraph (s)

Sales of machinery, or replacement parts thereof, used directly and exclusively in agricultural production; in commercial fishing; in the furnishing of gas, water, steam or electricity when delivered to consumers

through mains, lines or pipes; in the production of animals for research, testing, or other purposes relating to the promotion or maintenance of the health, safety or well being of human beings or animals or in research and development by a manufacturing corporation or a research and development corporation within the meaning of section thirty-eight C or forty-two B of chapter sixty-three. For the purpose of this paragraph, the raising of poultry and livestock shall be construed to be included in the term "agricultural production";

The Massachusetts Department of Revenue has issued Directives 92-2 and 99-8, which explain their interpretation of the phrase “directly and exclusively in agricultural production” and offers examples of when this exemption applies.

The Department of Revenue has also issued a letter, LR 85-64, in regards to sales tax on bees and bee equipment.

Directive 92-2 explains that the “sales of farm machinery, including sales of tractors, plows, backhoes, balers, harrowers, harvesters, manure spreaders, seeders, and similar machinery used directly and exclusively in agricultural production, as defined below, are exempt from sales tax.”

The directive explains the meaning of the phrase "directly and exclusively in agricultural production" for purposes of the sales tax exemption under G.L. c. 64H, § 6(s):

The phrase "directly and exclusively in agricultural production" means the preparation for and the activities of cultivation, growing, harvesting, and storage of any agricultural, floricultural, or horticultural commodity; dairying; the raising of livestock including horses, swine, cattle, or other domesticated animals used for food purposes; the raising of fur-bearing animals for the purpose of selling the pelts or furs in the regular course of business; the growing and harvesting of forest products on forest land; forestry or lumbering operations performed by a farmer; and beekeeping. Agricultural production also encompasses certain incidental agricultural operations, including the storage of crops and preparation for market, to the extent that such storage and preparation activities occur on the agricultural premises. For example, the use of a farm tractor for purposes of hauling produce to a farm stand located on the farmer's agricultural premises falls within the meaning of agricultural production. However, the use of a farm tractor to haul produce to a farm stand or market that is not located on the farmer's agricultural premises is not agricultural production. The directive also explained that in a court case involving manufacture, “The Court held that the use of machinery before or after the actual process of creating the goods, including loading them onto customers' trucks, was not direct and exclusive use in actual manufacturing.”

Directive 99-8 explains exemptions for cranberry growers. It is however relative to all of agriculture as it references the same law. In the directive, it explains that the exemption for materials, tools and fuels “only applies when the exempted material or fuel has a normal useful life of less than one year, or if its cost is allowable as an ordinary and necessary business expense for federal income tax purposes. A material or tool that cannot be expensed, or is capitalized and depreciated is not eligible for the exemption, unless exempt under some other provision of G.L. c. 64H, § 6. The 6(s) exemption for machinery is not limited by the federal tax code.” The directive includes a long list of machinery used in cranberry production exempt from sales tax as long as it is used directly and exclusively in agricultural production.

The directives are available at our office or online at the Department of Revenue’s Website at: www.mass.gov/dor. Use the search button to look for the directives.

LR 85-64 explains that the sale of bees is taxable as they are not livestock or poultry of a kind that constitute food for human consumption. The rental of bees for pollination is also taxable. However, the raising and keeping of bees for a commercial purpose is considered agricultural production and the equipment and machinery used for that purpose is not taxable. This includes the hives, hive parts, and

equipment used in honey extraction and the primary containers from which the ultimate consumer uses the honey. Protective clothing used in beekeeping is taxable as the exemption for the sales tax on clothing specifically excludes clothing designed for protective use only. This letter ruling is available through this office or online at the Department of Revenue website at: www.mass.gov/dor. Type in Letter Ruling 85-64: Bees and Beekeeping in the search bar.

Form ST-12 Exempt Use Certificate is used to obtain the exemption if applicable. Fill out and sign form, then give it to the vendor. This form is available by calling the MFBF office or online at: http://www.mass.gov/Ador/docs/dor/Forms/Wage_Rpt/PDFs/st_12.pdf.

If a sale of machinery is exempt, the rental or lease of the same machinery used for the same purpose is also exempt (DOR Directive 99-8).

Sales Tax Table

The following table lists items that are exempt from sales tax in Massachusetts if used as described above in agriculture:

asparagus roots	backhoes***
balers***	berry plants or bushes
cranberry bog maintenance equipment	feed, including feed bags
fertilizer	fruit trees
fuel**	fungicides
ground limestone	harrowers***
harvesters***	hydrated lime
insecticides	livestock
machinery, or replacement parts thereof ***	manure spreaders***
materials**	onion sets
parts of plants suitable for producing food	plant hormone
plants suitable for producing food	plows***
poultry	returnable and nonreturnable containers
seed disinfectants	seed inoculants
seed potatoes	seeders***
tools**	tractors***

** When consumed and used directly and exclusively in agricultural production

*** When used directly and exclusively in agricultural production

These lists are not all inclusive; items similar in use may also be exempt.

Sales Tax Resale

If you purchase tangible personal property to be resold in the regular course of your business, you do not have to pay sales tax on that property. To claim this exemption, you need to fill out Form ST-4 Sales Tax Resale Certificate. This certificate is given to the vendor. Misuse of the certificate is considered criminal tax evasion and may result in huge fines and/or imprisonment. You must hold a valid Massachusetts vendor registration to use this certificate.

Form ST-4 Sales Tax Resale Certificate is available from our office or online at: http://www.mass.gov/Ador/docs/dor/Forms/Wage_Rpt/PDFs/st_4.pdf.