

**RULE**

**Department of Revenue  
Policy Services Division**

Commercial Farmer Definition for Sales and Use Tax  
Exemption for Feed, Seed and Fertilizer  
(LAC 61:I.4301, 4404, and 4408)

Under the authority of R.S. 47:301(10)(2), 47:301(30), 47:305.3, 47:305.8, 47:1511 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, amends LAC 61:I.4301, 4404 and 4408.

The purpose of these amendments is to implement Act 378, of the 2017 Regular Session, which set forth the definition of commercial farmer at R.S. 47:301(30) and limited the exemptions found at R.S. 47:301(10)(e), 47:305.3 and 47:305.8 to commercial farmers. This Rule is hereby adopted on the day of promulgation.

**Title 61**

**REVENUE AND TAXATION**

**Part I. Taxes Collected and Administered by the  
Secretary of Revenue**

**Chapter 43. Sales and Use Tax**

**§4301. Uniform Sales and Local Sales Tax**

**Definitions**

A. - B. ...

C. All examples included in the text of these rules and regulations are for illustration only and in no case should they be construed to impose a limitation.

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*Commercial Farmer—*

a. Commercial Farmer is defined by R.S. 47:301(30) to mean persons, partnerships or corporations who:

i. are occupationally engaged in producing food or agricultural commodities for sale or for further use in producing food or such commodities for consumption or sale;

ii. regularly engage in the commercial production for sale of vegetables, fruits, crops, livestock and other food or agricultural products; and

iii. report farm income and expenses on a federal Schedule F or similar federal tax form, including but not limited to, Forms 1065, 1120 and 1120S under a North American Industry Classification System (NAICS) Code beginning with 11.

b. For purposes of this definition, agricultural products shall mean any agronomic, aquacultural, floricultural, horticultural, maricultural, silvicultural, or viticultural crop, livestock or product.

c. For purposes of this definition livestock means any animal, except dogs and cats. This

definition includes bees, cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys and other equine; sheep; goats; swine; domestic rabbits; fish, turtles, and other animals identified with aquaculture that are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; imported exotic deer and antelope, elk, farm-raised white tailed deer, farm-raised ratites, and other farm-raised exotic animals; chickens, turkeys, and other poultry; and animals placed under the jurisdiction of the commissioner of agriculture and forestry and any hybrid, mixture, or mutation of any such animal.

d. A person, partnership or corporation shall not be considered a commercial farmer if their livestock or crops are produced or maintained for reasons other than commercial use, such as recreational or personal consumption.

e. In order to file a Schedule F or similar federal tax form, a farm must be operated for profit. If farming activity is not carried on for profit, as defined in 26 CFR 1.183-2, then expenses must be itemized on a Schedule A.

f. The department will issue certifications to commercial farmers upon application and satisfaction of all legal requirements.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 31:697 (March 2005), LR 32:111 (January 2006), LR 32:865 (May 2006), LR 44:2022 (November 2018).

**Chapter 44. Sales and Use Tax Exemptions**

**§4404. Seeds Used in Planting Crops**

A. The sale at retail of seeds for use by a commercial farmer in the planting of crops of any kind is exempt from state and local sales or use tax. Crops do not include the planting of a garden to produce food for the personal consumption of the planter and his family. Neither is it intended to cover seed used in the planting of growth for landscape purposes unless the commercial farmer is engaged in the business of harvesting those plants and selling them in the commercial market.

B. It is not necessary that the farm operation result in a net profit or that a given acreage of any particular

crop be planted. The only requirement is that the planting be made by a commercial farmer.

C. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.3, R.S. 47:337.2, R.S. 47:337.9 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue, Policy Services Division, LR 31.99 (January 2005), LR 44:2022 (November 2018).

**§4408. Pesticides Used for Agricultural Purposes**

A. General. R.S. 47:305.8 provides an exemption from state and local sales or use tax for the sale at retail to commercial farmers of pesticides used for agricultural purposes. This exemption includes, but is not limited to, insecticides, herbicides, and fungicides used for agricultural purposes.

B. Definitions

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C. Dealer Requirements. A commercial farmer must present a valid commercial farmer certification certificate and applicable exemption certificate at the time of the purchase. The seller must keep a record of the presentation of such documentation. If the dealer fails to retain evidence of the presentation of valid certification and exemption certificate then the dealer will be liable for the sales tax on such purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:305.8, R.S. 47:337.2, R.S. 47:337.9 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:401 (April 1995), amended by the Department of Revenue, Policy Services Division, LR 31.95 (January 2005), LR 44:2023 (November 2018).

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Secretary