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DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12AER22-11 RULE TITLE: Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Used for Agricultural Purposes

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: Section 53 of Chapter 2022-97, Laws of Florida, authorizes the Department of Revenue to promulgate emergency rules to implement changes to the exemption from tax for the purchase of a trailer by a farmer for agriculture production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another, as well as the new exemption from tax for purchases of materials used to construct or repair fencing used in agricultural production. The promulgation of this emergency rule ensures that the public is notified in the most expedient and appropriate manner regarding the changes to the exemption for

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purchases of a trailer by a farmer, the new exemption for materials used to construct or repair fencing used in agricultural production, and the suggested purchaser’s exemption certificate to be used to document the exemptions.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: The Legislature expressly authorized the promulgation of emergency rules to implement the provisions of Section 23 of Chapter 2022-97, Laws of Florida. Additionally, this emergency rule is the most expedient and appropriate means of notifying taxpayers of the provisions.

SUMMARY: Emergency Rule 12AER22-11 amends Rule 12A-1.087, F.A.C., to incorporate changes to the exemption from tax for the purchase of a trailer by a farmer for agriculture production and transportation, as well as the exemption from tax for purchases of materials used to construct or repair fencing used in agricultural production.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Brinton Hevey, Technical Assistance and Dispute Resolution, telephone (850)717-7754, email RuleComments@floridarevenue.com.

THE FULL TEXT OF THE EMERGENCY RULE IS:

12AER22-11 ~~12A-1.087~~ Exemption for Power Farm Equipment; Electricity Used for Certain Agricultural Purposes; Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(1) through (3) No change

(4)(a) ~~The portion of sales price below \$20,000 for a trailer weighing 12,000 pounds or less and~~ purchased by a farmer for exclusive use in agricultural production, or to transport farm products from the farm to the place where the farmer transfers ownership of the farm products, is exempt from tax. This exemption is allowed regardless of whether the trailer is required to be or is licensed as a motor vehicle under chapter 320, F.S. ~~The portion of the sales price at or above \$20,000 for such a trailer remains subject to tax.~~ This exemption does not apply to leases or rentals of trailers. The exemption for trailers under this paragraph will not be allowed unless the purchaser furnishes the seller a written certificate that the purchased items qualify for the exemption under Section 212.08(3), F.S. The format of a suggested certificate is contained in subsection (10).

(b) ~~The partial~~ exemption granted for trailers does not apply to non-farmers such as haulers, contractors, loggers, and providers of crop services.

(c) No change

(5) through (9) No change

(10) Suggested Exemption Certificate for Items Used for Agricultural Purposes.

(a) through (e) No change

(f) The following is a suggested format of an exemption certificate to be issued by any person purchasing or leasing power farm equipment qualifying for exemption under section 212.08(3), F.S., or items that qualify for exemption as items for agricultural use or items for agricultural purposes. Exemption purposes listed on the suggested format that are not relevant to the purchaser or lessee may be eliminated from the certificate. The Department does not furnish the printed exemption certificate to be executed by purchasers or lessees when purchasing tax-exempt power farm equipment or items for agricultural use or for agricultural purposes. For an aquaculture health product, the purchaser may use the suggested purchaser’s exemption certificate below or provide a copy of the aquaculture producer’s Aquaculture Certification from the Florida Department of Agriculture and Consumer Services to the selling dealer.

**SUGGESTED PURCHASER’S EXEMPTION CERTIFICATE
ITEMS FOR AGRICULTURAL USE OR FOR AGRICULTURAL PURPOSES AND POWER FARM EQUIPMENT**

This is to certify that the items identified below, purchased on or after _____ (date) from _____ (Selling Dealer’s Business Name) are purchased, leased, licensed, or rented for the following purpose as checked in the space provided. This is not intended to be an exhaustive list.

Hog wire and barbed wire fencing, including gates and materials used to construct or repair such fencing, used in agricultural production on lands classified as agricultural lands under Section 193.461, F.S. Materials used to construct or repair hog wire and barbed wire fencing means those materials that are incorporated into and become a component part of the constructed or repaired fencing, such as: welded or barbed wire; hog or barbed wire fence rolls; lumber or steel for posts or rails; nails, screws, hinges; and concrete consisting of premixed dry mortar or other components.

A trailer purchased by a farmer that is used exclusively in agricultural production or to transport farm products from the farmer’s farm to the place where the farmer transfers ownership of the farm products to another. This exemption does not apply to the lease or rental of a trailer. The exemption is not forfeited by using the trailer to transport the farmer’s equipment.

Cloth, plastic, or similar material used for shade, mulch, or protection from frost or insects on a farm.

Fertilizers (including peat, topsoil, sand used for rooting purposes, peatmoss, compost, and manure, but not fill dirt), insecticides, fungicides, pesticides, and weed killers used for application on or in the cultivation of crops, groves, home vegetable gardens, and commercial nurseries.

Generators purchased, rented, or leased for exclusive use on a poultry farm. See the exemption category provided for

power farm equipment, as defined in Section 212.02(30), F.S., which includes generators, motors, and similar types of equipment.

() Insecticides and fungicides, including disinfectants, used in dairy barns or on poultry farms for the purpose of protecting cows or poultry or used directly on animals, as provided in Section 212.08(5)(a), F.S.

() Animal health products ~~product~~ that are administered to, applied to, or consumed by livestock or poultry to alleviate pain or cure or prevent sickness, disease, or suffering, as provided in Section 212.08(5)(a), F.S.

() Aquaculture health products ~~product~~ to prevent or treat fungi, bacteria, and parasitic diseases, as provided in Section 212.08(5)(a), F.S. I certify that I am engaged in the production of aquaculture products and certified under Section 597.004, F.S.

() Nets, and parts used in the repair of nets, purchased by commercial fisheries.

() Nursery stock, seedlings, cuttings, or other propagative material for growing stock.

() Portable containers, or moveable receptacles in which portable containers are placed, that are used for harvesting or processing farm products.

() Seedlings, cuttings, and plants used to produce food for human consumption.

() Stakes used to support plants during agricultural production.

() Items that are used by a farmer to contain, produce, or process an agricultural commodity, such as: glue for tin and glass for use by apiarists; containers, labels, and mailing cases for honey; wax moth control with paradichlorobenzene; cellophane wrappers; shipping cases; labels, containers, clay pots and receptacles, sacks or bags, burlap, cans, nails, and other materials used in packaging plants for sale; window cartons; baling wire and twine used for baling hay; and other packaging materials for one time use in preparing an agricultural commodity for sale.

() Liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

() Liquefied petroleum gas, diesel, or kerosene used to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

() Liquefied petroleum gas, diesel, or kerosene used for agricultural purposes in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.

() Butane gas, propane gas, natural gas, or other form of liquefied petroleum gas used in a tractor, vehicle, or other farm equipment used directly or indirectly for the production, packing, or processing of aquacultural products, whether on or off the farm.

() Power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries included in sections 570.02(1) and 581.217, F.S., or

() Power farm equipment or irrigation equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in sections 570.02(1) and 581.217, F.S., or

() Repairs to, or parts and accessories for, qualifying power farm equipment or irrigation equipment for exclusive use in the agricultural production of crops or products, as produced by those agricultural industries included in sections 570.02(1) and 581.217, F.S., or

() Repairs to, or parts and accessories for, qualifying power farm equipment or irrigation equipment for exclusive use in fire prevention and suppression work for such crops or products, as produced by those agricultural industries included in sections 570.02(1) and 581.217, F.S.

() Other (include description and statutory citation):

I understand that if I use the item for any purpose other than the one I stated, I must pay tax on the purchase or lease price of the taxable item directly to the Department of Revenue.

I understand that if I fraudulently issue this certificate to evade the payment of sales tax I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony.

The exemption specified by the purchaser may be verified by calling (850)488-6800, Monday through Friday (excluding holidays).

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Purchaser's Name

Purchaser's Address

Name and Title of Purchaser's Authorized Representative

Sales and Use Tax Certificate No. (if applicable)

By

(Signature of Purchaser or Authorized Representative)

Title

(Title – only if purchased by an authorized representative of a business entity)

Date

(g) The following is a suggested format of an exemption certificate to be issued by any person purchasing a trailer qualifying for a partial exemption under Section 212.08(3)(b), F.S. The Department does not furnish the printed exemption certificate to be executed by purchasers when purchasing trailers qualifying for the partial exemption. SUGGESTED EXEMPTION CERTIFICATE FARM TRAILERS WEIGHING 12,000 POUNDS OR LESS

This is to certify that the trailer described below, purchased on _____ of _____ after _____

(date) from _____ (Selling Dealer’s Business Name) is purchased by a farmer in accordance with Section 212.08(3)(b), F.S., for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another.

DESCRIPTION OF TRAILER INCLUDING WEIGHT:

[Redacted description of trailer]

Note: Any portion of the sales price in excess of \$20,000.00 is subject to sales tax. I understand that if I use the equipment for any purpose other than the one stated, I must pay tax on the initial \$20,000 of the purchase price of the trailer directly to the Department of Revenue. I understand that if I fraudulently issue this certificate to evade the payment of sales tax, I will be liable for payment of the sales tax plus a penalty of 200% of the tax and may be subject to conviction of a third degree felony. The exemption specified by the purchaser may be verified by calling (850)488 6800, Monday through Friday (excluding holidays).

Purchaser’s Name

[Redacted purchaser name]

Purchaser’s Address

[Redacted purchaser address]

Name and Title of Purchaser’s Authorized Representative

Sales and Use Tax Certificate No. (if applicable)

By

[Redacted signature]

(Signature of Purchaser or Authorized Representative)

Title

[Redacted title]

(Title – only if purchased by an authorized representative of a business entity)

Date

(11) through (12) No change

Rulemaking Authority 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.08(3), (5)(a), (e), (7)(jjj), 212.085 FS., section 23, Ch. 2022-97 LOF. History—New 10-7-68, Amended 1-7-70, 6-16-72, 10-18-78, 7-20-82, 4-12-84, Formerly 12A-1.87, Amended 12-13-88, 3-1-00, 6-19-01, 9-15-08, 1-17-13, 1-11-16, 1-10-17, 1-17-18, 1-8-19, 12-12-19, 7-1-22.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: July 1, 2022

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