

**RAB-90-1**

**SALES & USE**

**Agricultural Production Amendments &  
USE**

**(Replaces RAB-89-6)**

**(Replaced by RAB-91-11)**



JAMES J. BLANCHARD, Governor  
ROBERT A. BOWMAN, State Treasurer

STATE OF MICHIGAN

**DEPARTMENT OF TREASURY**

TREASURY BUILDING

LANSING, MICHIGAN 48922

REVENUE ADMINISTRATIVE BULLETIN 1990-1

Approved: January 11, 1990

**SALES AND USE TAXES - AGRICULTURAL PRODUCTION AMENDMENTS**

(Replaces Revenue Administrative Bulletin 1989-6)

RAB-90-1. In 1988 the Legislature passed amendments to the Sales Tax Act affecting the "agriculture production" exemption. Act 519 of the Public Acts of 1988, amended MCL 205.54a(f). This provision is effective January 18, 1989. The Use Tax Act was also amended in 1989 to provide a similar "agriculture production" exemption. Act 141 of the Public Acts of 1989 amended MCL 205.94(f). This exemption was made retroactive being effective January 1, 1989. This Bulletin describes these changes and provides explanation of the Department's position when a person claims exemption under the new provisions.

Commercial Fishing

Public Act 519 provides a new sales tax exemption for commercial fishing activities. These activities are now considered to be "agricultural producing" for purposes of the Sales Tax Act. The exemption is for the purchase of tangible personal property used "in the direct gathering of fish, by net, line, or otherwise, only by an owner-operator of the business enterprise." The new provision specifically directs that a charter fishing business enterprise is not an exempt business.

Tangible personal property that may be purchased exempt from sales tax includes nets of all types, bottom stakes, hook lines, baits, winches, lines, ropes, commercial fishing boats, oil and fuel, fish and depth finders, buoys, markers, anchors, any safety equipment required by law to be on board, and any other property used in the direct gathering of fish.

To qualify for the exemption, the purchaser must be licensed as a commercial fishing business by the Department of Natural Resources. When claiming this exemption the purchaser must complete and present to the seller an exemption certificate containing the following:

CERTIFICATE OF COMMERCIAL FISHING EXEMPTION  
SALES TAX

The undersigned hereby certifies that all items purchased on the date indicated below, except items specifically listed, are for use or consumption in connection with the direct gathering of fish by an owner-operator of a licensed commercial fishing business enterprise. The undersigned agrees to reimburse the seller for sales tax if the items are used or consumed otherwise.

Date \_\_\_\_\_ Signed \_\_\_\_\_  
Purchaser

Address \_\_\_\_\_  
\_\_\_\_\_

Use Tax Act

The Michigan Use Tax Act [MCL 205.91 et seq] was not amended to include the exemption for commercial fishing. Therefore, these items continue to remain taxable under circumstances where the use tax applies. Purchases made from out-of-state sellers are not exempt. Also, lease arrangements where use tax is collected by the lessor on rental receipts are not exempt from tax.

Portable Grain Bins and Land Tiles

Public Acts 519 and 141 expand the sales and use tax "agriculture producing" exemption to cover portable grain bins and land tiles.

As defined in the statutes, a portable grain bin "means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts." Prior to the amendments, all grain bins were considered a part of realty and not exempt from tax for use in agricultural production. The new exemption covers grain bins that are not permanently affixed to realty.

The land tile exemption is applicable to either "fired clay or perforated plastic tubing used as part of a subsurface drainage system. . ." This means that the drain tile itself can be purchased tax-free. Any other product used in the tiling process is not exempt. A taxable item of a drain field will include a metal outlet pipe or culvert, if used.

The exemption applies only to drainage tile in land used for agricultural production. Tile used in areas or for purposes other than agricultural production are taxable. For example, tile used in a residential area or in the yard around a farmhouse is taxable.

Land tile and storage bins (as described above) are usually installed by a contractor rather than by the agricultural producer. Therefore, a contractor with a sales tax license may make a claim for exemption for resale when purchasing grain bins or tile for installation on another's farm. To perfect this exemption, the contractor must present the sales tax license number and the statement "for resale at retail" to the seller at the time of sale. The sale of the tile or grain bin to the agricultural producer is then exempt from tax under these new provisions. To claim exemption, the agricultural producer must sign and present the following certificate to the contractor. [Michigan Sales and Use Tax Rules, 1979 AC, R 205.51]

**CERTIFICATE UNDER AGRICULTURAL  
PRODUCING EXEMPTION**

The undersigned hereby certifies that all items purchased, except as indicated hereon, are purchased for use or consumption in connection with the production of horticultural or agricultural products as a business enterprise, and agrees to reimburse the seller the sales tax if used or consumed otherwise.

Date \_\_\_\_\_ Signed \_\_\_\_\_  
Purchaser

Address \_\_\_\_\_  
\_\_\_\_\_