

MOTOR VEHICLES USED DIRECTLY AND PREDOMINANTLY
IN THE PRODUCTION PHASE OF FARMING
CHAPTER 736, LAWS OF 1986

Effective December 1, 1986, Chapter 736 of the Laws of 1986 amends section 1115(a)(6) of the Tax Law with respect to motor vehicles used directly and predominantly in the production phase of farming. Vehicles qualifying for farm license plates under the Vehicle and Traffic Law are exempt from sales and use tax at the time of purchase. However, when a vehicle does not qualify for farm license plates, tax is due at the time of purchase or registration with the Department of Motor Vehicles. Application for a refund or credit of tax paid may be made in the manner described herein.

Use directly in the production phase of farming means any use of the motor vehicle connected to the production phase of farming (1) on property actually farmed by the purchaser or user of the motor vehicle or (2) in direct and uninterrupted trips between properties farmed by the purchaser or user of the motor vehicle.

For purposes of this exemption, predominantly means that more than 50% of the motor vehicle's use must be directly in the production phase of farming as opposed to the sales, administrative or maintenance phase of farming, computed at the discretion of the purchaser or user on the basis of mileage or hours of use. The farmer must choose one method for each vehicle.

Following are lists of exempt and nonexempt farming uses of motor vehicles. These lists provide guidelines and are not intended to be all-inclusive.

Exempt Uses

Please note that the following activities are exempt only when the motor vehicle is used on property actually farmed by the purchaser or user of the vehicle at the beginning of, during and at the conclusion of an activity. If the motor vehicle is driven from one such property to another, the trip must be direct and uninterrupted.

- 1 - Carrying seeds, fertilizer, pesticides and fuel to the field from storage areas
- 2 - Transporting crops or livestock from fields to barns
- 3 - Bringing food and water to livestock
- 4 - Traveling between fields and/or farms to check on workers, crops, livestock or farm buildings and machinery
- 5 - Transporting workers, supplies and tools to and from work stations
- 6 - Driving motor vehicle to field and parking it while working in field

Nonexempt Uses

A vehicle used in the following activities is not deemed to be engaged in the production phase of farming:

- 1- Picking up supplies for farm at stores
- 2- Delivering crops or livestock to market
- 3- Transporting farm animals to veterinarian
- 4 - Bringing workers to a farm operated by the purchaser or user of the motor vehicle from a point away from such farm
- 5 - Delivering crops, animals or supplies to a farm not operated by purchaser or user of motor vehicle
- 6 - Driving to a meeting related to farming (accountant, lawyer, banker, insurance or grange meetings)
- 7 - Driving to farm auctions, conventions, sales
- 8 - Driving for social or personal purposes, whether on or off the farm

The farmer must pay sales tax on a motor vehicle at the time of purchase or registration with the Department of Motor Vehicles and apply directly to the Department of Taxation and Finance for a refund or credit if the vehicle qualifies for exemption. Records must be kept to verify and substantiate that the vehicle has been used directly and predominantly in the production phase of farming. The use of a separate daily logbook which records the use of each vehicle will be acceptable substantiation.

To obtain a refund or credit, Form AU-11, Application for Credit or Refund of State and Local Sales or Use Tax must be filed within three years after the date the tax was payable by the claimant. This form may be obtained by calling from within New York State, toll-free, 1-800-462-8100; from outside New York State, call 1-518-438-1073. If you prefer to write, the address is New York State Tax Department, Taxpayer Assistance Bureau, W. A. Harriman Campus, Albany, NY 12227-0125.

The following information must be included when Form AU-11 is filed:

- (A) A copy of your motor vehicle registration, a copy of the bill of sale or invoice showing the amount of sales tax, and proof of payment of the sales tax.
- (B) A description of the type of farming in which the vehicle is used.
- (C) A statement of the actual mileage or actual time (whichever election you make for that vehicle) that the vehicle is used per year in the following categories:
 - (1) picking up supplies from a store for use on a farm or farms operated by purchaser or user of motor vehicle

- (2) delivering crops or livestock to market
- (3) transporting farm animals to veterinarian
- (4) driving to a meeting related to farming (accountant, lawyer, banker, insurance, farm auctions, sales or conventions)
- (5) transporting workers from an off-farm location to a farm operated by the purchaser or owner of motor vehicle
- (6) transporting animals, supplies or workers to a farm not operated by purchaser or user of motor vehicle
- (7) driving motor vehicle from barn to field where both are located on property actually farmed by purchaser or user of motor vehicle
- (8) clearing fields for planting on farm properties operated by purchaser or user of motor vehicle
- (9) carrying seeds, fertilizer, pesticides and fuel from storage on farm property operated by purchaser or user of motor vehicle to fields on the same or other farm property of such person
- (10) bringing food or water to livestock from one farm to another where both farms are operated by the purchaser or user of the motor vehicle
- (11) transporting supplies, tools or workers (for purposes of making repairs to fences, buildings, machinery or equipment) from point A to point B, where both points are located on a farm operated by the purchaser or user of the motor vehicle
- (12) transporting harvested farm products from fields to storage where both are located on a farm operated by the purchaser or user of the motor vehicle
- (13) Any other use of motor vehicle, whether or not related to farming and whether or not on or between your farm properties. Be specific.

Your statement of uses in the above categories should describe all your uses of the vehicle.