

**Silo Foundation Construction Materials
and
Farmer's Personal Protective Equipment**

This memorandum describes two amendments to section 528.7 of the Sales and Use Tax Regulations relating to the farming exemptions that take effect September 1, 1997. The exemptions apply to state and local sales and use taxes and the ¼% tax imposed in the Metropolitan Commuter Transportation District. This district consists of the city of New York and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

Silo Foundations

The first regulatory change provides that all materials used in erecting, adding to, altering or improving the **foundation** of a silo are exempt from sales and compensating use tax if:

- the materials become an integral component part of the silo foundation; and
- the silo is used in farming to make and store silage on a farm.

Prior to this amendment, materials incorporated into the silo qualified for the exemption, but foundation materials did not.

Personal Protective Equipment

The second regulatory change provides that personal protective equipment purchased by a person engaged in farm production (i.e., producing farm products for sale) is exempt provided certain conditions are met.

Personal protective equipment is any item designed to protect the user, while engaged directly in farm production, against possible hazards from farm processes, the environment, chemicals used in farming, or farm machinery, equipment, or other mechanical devices. It does not include clothing or apparel, other than safety apparel or safety shoes. Personal protective equipment is used directly and predominantly in farm production if over 50 percent of its use is directly in the production phase or process.

To qualify for the exemption, the personal protective equipment must be:

- purchased by the farmer; and
- used or consumed by the farmer or the farmer's employee(s) while engaged directly and predominantly in farm production.

Examples of qualifying personal protective equipment include:

- **Eye and face protection.** Protective devices used to protect the eyes or face from flying particles, liquids, chemicals, gases or the like, or injurious light radiation.
- **Ear protection.** Protective devices for the ears where there is a danger from any source that could cause physical injury to the ear or cause hearing impairment or loss of hearing.
- **Head protection.** Protective helmets when working in areas where there is a potential for injury to the head from falling objects.
- **Respiratory protection.** Self-contained breathing apparatus, masks and filters used to protect an individual from breathing air containing harmful organic or inorganic particles or gases.
- **Hand protection.** Protective gloves or other devices for hands where they are exposed to hazards such as skin absorption of harmful chemicals, severe cuts or lacerations or severe abrasions or punctures.
- **Foot protection.** Protective footwear where there is a danger of foot injuries due to falling or rolling objects or objects piercing the footwear.

Forms ST-125, *Farmers Exemption Certificate*, and ST-120.1, *Contractor Exempt Purchase Certificate*, have been revised to reflect exemption from sales and use taxes for these items.

For additional information about exemptions afforded to farmers, see Publication 844, *New York State and Local Sales Tax Information for Farmers*.