

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

(1)(a) The sale, rental, lease, use, consumption, or storage for use of power farm equipment is exempt. To qualify for this exemption, the power farm equipment must be used exclusively on a farm or in a forest in the agricultural production of crops or products as produced by those agricultural industries included in Section 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products. Power farm equipment that is not purchased, leased, or rented for exclusive use in the agricultural production of agricultural products, or for fire prevention or suppression work with respect to such crops or products, does not qualify for exemption. This exemption is not forfeited by moving qualifying power farm equipment between farms or forests.

(b) The exemption 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).

(2) For purposes of this rule, the following definitions will apply:

(a) Agricultural industries, as defined in Section 570.02(1), F.S., include aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(b) Agricultural production, as defined in Section 212.02(32), F.S., means the production of plants and animals useful to humans, including the preparation, planting, cultivating, or harvesting of these products or any other practices necessary to accomplish production through the harvest phase, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.

(c) Aquaculture products, as defined in Section 597.0015(3), F.S., means aquatic organisms and any product derived from aquatic organisms that are owned and propagated, grown, or produced under controlled conditions. Such products do not include organisms harvested from the wild for depuration, wet storage, or relay for purification.

(d) Cultivating means the nurturing or the fostering of growth of an agricultural crop or product, including the elimination of weeds. Examples of cultivating include, but are not limited to: feeding, fertilizing, plowing, pruning, and spraying agriculture crops or products.

(e) Forest, as defined in Section 212.02(31), F.S., means the land stocked by trees of any size used in the production of forest products, or formerly having such tree cover, and not currently developed for nonforest use.

(f) Harvesting means the act or process of cutting, reaping, digging up, or gathering an agricultural product or crop from a place where grown. Harvesting does not include the processing of crops or products.

(g) Processing means the act of changing or converting the nature of a product after it has been harvested.

(3)(a) The following is a nonexhaustive list of tax-exempt power farm equipment, as defined in Section 212.02(30), F.S.

1. Aerators.
2. All-terrain vehicles.
3. Augers.
4. Automated potting, transplanting, seeding, soil mixing, and flat filling equipment.
5. Bale shredders.
6. Backhoes.
7. Boats and boat motors, purchased together or separately, for use in the agricultural production of aquaculture products on a farm.
8. Bulldozers.
9. Chainsaws.
10. Combines.
11. Conveyers.
12. Corn, cotton, grain, and bean heads for use on combines.
13. Cultivators.
14. Disks.
15. Electric Fans.
16. Feed mills (portable).
17. Feeding stations.
18. Feeding systems.
19. Feller bunchers.

20. Fertilizer spreaders.
21. Field trailers and wagons.
22. Forklifts, excluding forklifts used for processing farm products.
23. Front-end loaders.
24. Goats, as defined in Section 320.08(3)(d), F.S.
25. Harrows.
26. Harvesters.
27. Hay balers, hay cutters, hay rakes, and tedders.
28. Traveling “gun-type” and center pivot irrigation systems, excluding replacement hoses and pipes.
29. Livestock feeders.
30. Log loaders.
31. Milking machines.
32. Motorized pumps.
33. Mowers.
34. Planters.
35. Plows.
36. Power units, including electric-powered, fuel-powered, or solar-powered motors or engines.
37. Scalpers.
38. Scrapers, graders, and grade boxes.
39. Skid steer loaders.
40. Skidders.
41. Sod cutters.
42. Sod harvesters.
43. Sprayers.
44. Spreaders.
45. Tractors.
46. Tree bedders.
47. Wood chippers (field type).

(b) The purchase, lease, or rental of power farm equipment which is invoiced as a single working unit that is used exclusively on a farm or in a forest, as provided in paragraph (1)(a), qualifies for the exemption. When the component parts are invoiced separately, only those components that qualify for the exemption, as provided in paragraph (1)(a), may be purchased, leased, or rented tax-exempt.

1. Example: An irrigation supply system is purchased for use on a farm to provide water to an agricultural crop. The irrigation supply system, consisting of pumps, pipes, tubing, hoses, generator, motors, and other items, is purchased and invoiced as a single item at a single price. The purchase of the irrigation supply system is exempt.

2. Example: A farmer owns an irrigation supply system and wants to replace or update various components of the system. The farmer purchases an additional pump, a generator, and various hoses, pipe, and connectors in order to replace or update the system. The pump and generator qualify as power farm equipment, and these items may be purchased tax-exempt. The purchase of the various hoses, pipe, and connectors does not qualify as a purchase of power farm equipment and is subject to tax at the time of purchase.

(4)(a) Persons engaged in the agricultural production of aquaculture products qualify for the exemption on their purchase or lease of a boat or boat motor to be used exclusively for aquacultural purposes. To qualify for exemption, such person must be registered with the Department of Agriculture and Consumer Services under Section 597.004, F.S., as a person engaged in aquaculture. For purposes of this rule, a farm includes submerged sites leased from the state under the authority of Section 253.68, F.S., by a person engaged in aquaculture activities.

(b) Example: A clam farmer leases a submerged site from the state pursuant to Section 253.68, F.S., and is certified under Section 597.004, F.S., with the Department of Agriculture and Consumer Services. The clam farmer qualifies for the exemption on the purchase or lease of a boat used exclusively in the agricultural production of clams on the leased site. The exemption is not forfeited by moving boats between farms.

(5)(a) Power farm equipment does not include vehicles (including vehicles without power, such as cattle trailers and log trailers) that are required to be licensed as a motor vehicle under Chapter 320, F.S. However, a motor vehicle licensed as a “goat” under Section 320.08(3)(d), F.S., is exempt.

(b) Power farm equipment does not include equipment used for processing agricultural crops or products.

(6)(a) Generators, motors, and similar types of equipment used exclusively as a power source on a farm or in a forest, as provided in paragraph (1)(a), are exempt from tax. For example: a diesel-powered generator used to supply power to an irrigation pump qualifies for the exemption. A generator used to power equipment used in agricultural production also qualifies for the exemption.

(b) Generators purchased, rented, or leased for use on a poultry farm are exempt from sales tax under Section 212.08(5)(a), F.S. The exemption will not be allowed unless the purchaser or lessee issues to the seller a signed certificate stating the generator is purchased or leased for exclusive use on a poultry farm.

(7) The exemption for power farm equipment does not apply to charges for repairs to farm equipment or to purchases of replacement parts for such equipment.

(8)(a) The following sales and uses of liquefied petroleum gas, diesel, and kerosene are exempt when:

1. Sold for use in any tractor, vehicle, or other farm equipment that is used exclusively on a farm for farming purposes.
2. Consumed in transporting farm vehicles and farm equipment between farms.
3. Sold for use to heat a structure in which started pullets or broilers are raised.
4. Sold for use to transport bees by water and in the operation of equipment used in the apiary of a beekeeper.

(b) Liquefied petroleum gas, diesel, and kerosene sold for use in any tractor or vehicle driven or operated upon the public highways of the state is subject to tax.

(9)(a) Electricity used for the production, packing, or processing of agricultural products on a farm or in a packinghouse is exempt. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail. “Packinghouse” means any building or structure where fruits, vegetables, or meat from cattle or hogs are packed or otherwise prepared for market or shipment in fresh form for wholesale distribution. The exemption only applies if the electricity is separately metered from the electricity used for nonexempt purposes. If the electricity is centrally metered and is used for both tax-exempt and taxable purposes, the purchase of the electricity is subject to tax. The indirect use of electricity, such as in employee break rooms or restrooms, repair facilities, or administrative offices located on a farm or in a packinghouse, qualified for the exemption. However, when a retail establishment is located on a farm and the electricity is not separately metered from the electricity used elsewhere on the farm, the electricity is subject to tax.

(b) For purposes of this subsection, a farm means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(c) The exemption will not be allowed unless the purchaser furnishes its utility a written certificate stating that the electricity is used on a farm for the production, packing, or processing of agricultural products, or in a packinghouse, and qualifies for the exemption under Section 212.08(5)(e)2., F.S. The following is a suggested format of an exemption certificate to be issued to a utility company to make tax-exempt purchases of electricity used for this purpose:

SUGGESTED EXEMPTION CERTIFICATE
ELECTRICITY USED FOR THE PRODUCTION, PACKING,
OR PROCESSING OF AGRICULTURAL PRODUCTS ON A FARM
OR USED IN A PACKINGHOUSE

I certify that the electricity used on or after _____ (DATE) from _____ (UTILITY COMPANY) consumed through the following meter(s) is exempt from sales tax pursuant to Section 212.08(5)(e)2., Florida Statutes (F.S.), and will be:

(Check the appropriate box)

- Used in the production, packing, or processing of agricultural products on a farm.
- Used in a packinghouse for packing or otherwise preparing for market, or for shipment in fresh form, for wholesale distribution fruits and vegetables, or meat from cattle or hogs.

I certify that the electricity will not be used in a building or structure where agricultural products are sold at retail.

Meter Number(s):

I understand that if the electricity purchased does not qualify for exemption under Section 212.08(5)(e)2., F.S., then I must pay the tax on the purchase 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 mandatory penalty of 200% of the tax, and will be liable for fine and punishment provided by law for conviction of a felony of the third degree, as provided in Section 775.082, 775.083, or 775.084, F.S.

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 and Title (Print or Type)

Purchaser's Address

Signature

Date

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

(a) Any person who purchases items that qualify for the exemption under Section 212.08(3), F.S., must issue an exemption certificate to the selling dealer to purchase qualifying power farm equipment tax-exempt. Any purchaser who purchases items for agricultural purposes must also issue an exemption certificate to the selling dealer in lieu of paying tax. The exemption certificate must contain the purchaser's name and address, the reason for which the use of the item qualifies for exemption based on its use, and the signature of the purchaser or an authorized representative of the purchaser.

(b) Seeds, including field, garden, and flower seeds are exempt. The purchaser is not required to issue an exemption certificate to the selling dealer to purchase seeds tax-exempt.

(c) The selling dealer is only required to obtain one certificate for sales made for the purposes indicated on the certificate and is not required to obtain an exemption certificate for subsequent sales made to the same purchaser for the exempt purpose indicated on the exemption certificate. The selling dealer must maintain the required exemption certificates in its books and records until tax imposed by Chapter 212, F.S., may no longer be determined and assessed under Section 95.091(3), F.S.

(d) Dealers who accept in good faith the required certificate from the purchaser or lessee will not be assessed sales tax on sales of power farm equipment or items for agricultural use or for agricultural purposes. In such instances, the Department will look solely to the purchaser or lessee for any additional sales or use tax due.

(e) Selling dealers may contact the Department at 1(800)352-3671 to verify the specific exemption specified by the purchaser or lessee. Persons with hearing or speech impairments may call the Florida Relay Service at 1(800) 955-8770 (Voice) and 1(800) 955-8771 (TTY).

(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.

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:

- 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.

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.

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.

Power farm equipment, when purchased, rented, or leased for exclusive use in the agricultural production of crops or products as produced by those agricultural industries included in Section 570.02(1), F.S., or for fire prevention and suppression work with respect to such crops or products.

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 1(800) 352-3671.

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 _____

Rulemaking Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), (30), (31), (32), 212.05(1), 212.0501, 212.06(1), 212.07(5), 212.08(3), (5)(a), (e), 212.085, 823.14(3) FS. 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.