



NEW AG/TIMBER SALES TAX EXEMPTION REGISTRATION NUMBER... WHAT YOU NEED TO KNOW

Article by KIRBY BROWN

House Bill 268 approved in the 2011 legislative session addresses the long-time and contentious issue of how businesses can be assured who qualifies for the ag or timber sales tax exemption. Since the news release from the Comptroller's office in late August, the Texas Wildlife Association has received a lot of questions from members and others in the wildlife community. We wanted to provide additional information and background on this important issue to answer many of these questions

Retailers have been concerned for years that customers who do not qualify for the sales tax exemption, like a homeowner buying dog food, could sign for it, and the business would be assessed sales tax during a normal business audit and have to pay up for selling goods tax-free that were actually taxable. This has simmered for years, but retailers pushed hard for changes during this last session. In previous years, the agriculture community was content to leave it alone, but with the major shortfalls in revenues at the state level, TWA and ag groups took on the subject this past legislative session in an effort to clean up the confusion and head off several draconian efforts that would have negatively impacted farm, ranch and timber operations.

"As a fifth generation rancher," notes Texas Comptroller and TWA Director Susan Combs, "I have always understood the importance of the agricultural sales tax exemption to ag producers across the state. At one time or another, we have all been at the feed store and seen the sales tax exemption claimed by a purchaser who clearly had no commercial interest in agriculture. As Comptroller, I am extremely pleased that the agriculture community took the initiative to lead the way and craft a solution with House Bill 268 to help curb this abuse."

"There is no change to who or what qualifies for the ag sales tax exemption under this new law. The change comes in the process for claiming the exemption," said Josh Winegarner of the Texas Cattle

Feeders Association, who took the lead for ag groups in creating the registration. "Instead of the current practice that requires the producer to fill out an exemption certificate at each retail outlet for each purchase, ag and timber producers will now complete an application for their registration number, which attests to the Comptroller that the producer qualifies for exemption."

Winegarner continued to explain that the Comptroller will then issue the producer a unique number, which is good for four years. That number will then be provided on the exemption certificate issued by the purchaser to the retailer. The number on the certificate tells the retailer that the customer claiming the exemption is indeed eligible, thus limiting the liability for the retailer. The retailer can retain on file that one certificate, with the new number, as verification that the purchases made by the customer qualify for exemption. Additionally, the requirement to obtain the number prior to purchase will significantly reduce the fraud and abuse currently caused by non-producers who provide retailers with fraudulent information at the time of purchase. Winegarner added, "This law will protect the ag sales tax exemption without overburdening legitimate producers or retailers."

The registration number requirement does NOT change the ag/timber sales tax exemption in the sales tax laws that have been in place since 1961. Anyone engaged in the production of ag or timber products for sale still qualifies. This is how the law has read for years, as you have read in the pages of our TWA magazine. If you raise and sell livestock, hay, vegetables, plants, etc. or produce timber that is sold in commerce, you qualify (see below) for a registration number that can be used to claim an exemption from tax on items that will be used **exclusively in the production of timber products or on a farm or ranch in the production of agricultural products**. And, as always, not all "ag"

items require a registration number in order to be tax exempt. For example, **feed for wildlife and horses is always tax exempt** and does not require a registration number. However, other items for farm and ranch use, such as machinery and tools, require the registration number in order to be exempt. Please see the specifics below about what types of items require a registration number to be purchased tax-free and what items do not.

Again, as has been in law since the sales tax exemption went into effect, items purchased for use in **wildlife management** and/or land conservation and maintenance or **operation of hunting and fishing leases are NOT exempt from sales taxes**. They never have been exempt. Farm and ranch retailers were never very picky about this until the last 10 years, when we saw normal business audits question sales of deer blinds, etc. TWA has talked to legislators over this time period about wildlife as a critical component of agriculture and farm and ranch operations, but with the fiscal situations at the Capitol and unknowns with the perception of cheating and various estimates on amounts of potential funds that could be generated under a better system, we could not get any traction.

However, if we can weed out the casual homeowner that was falsely claiming the exemption and costing the state, municipalities and local communities sales tax dollars, then we feel the wildlife and hunting community can effectively move forward and establish the need for the extension of the ag sales tax exemption to basic equipment necessary for wildlife management and hunting operations on the ranch and farm.

Below is the news release from the Comptroller on the new registration requirement for the sales tax exemption. The registration requirement goes into effect January 1, 2012. A downloadable application for a registration number is available on the Comptroller's website at www.cpa.state.tx.us. By taking charge



of the process and steering it in a direction that created the simplest possible solution to a complex problem, TWA and the ag community saved producers from draconian measures, and according to some legislators, likely saved the ag/timber sales exemption itself.

New Sales Tax Exemption Requirement for Commercial Agriculture and Timber Operations — Get A Registration Number

DO I NEED A REGISTRATION NUMBER?

If you claim an exemption from sales tax on the purchase of certain items used in the production of agricultural and timber products, yes. House Bill 268, passed during the 82nd Regular Legislative Session (2011), requires that a person claiming an exemption from sales tax on such purchases must provide a registration number issued by the Comptroller of Public Accounts on the exemption certificate issued to the seller. The Comptroller will provide a registration number to you upon your successful application for registration.

WHAT TYPES OF ITEMS ARE SUBJECT TO THIS REQUIREMENT?

Beginning Jan. 1, 2012, a registration number will be required in order to claim an exemption from Texas sales and use tax when purchasing the following goods and services:

- fertilizers, fungicides, insecticides, herbicides, defoliant and desiccants used exclusively in the production of timber for sale, or on a commercial farm or ranch in the production of food or other agricultural products for sale;
- machinery and equipment (including component parts) used exclusively in the production of timber, or on a commercial farm or ranch in the production of food or other agricultural products for sale or the building or maintaining of roads and water supplies;
- machinery and equipment used by an original producer for packing and processing agricultural or timber products;
- machinery and equipment used exclusively in an agricultural aircraft operation, as defined by 14 C.F.R. Section 137.3 (crop dusting);
- tangible personal property incorporated into a structure used for poultry carcass disposal;
- components of irrigation systems used in the production of food and other agricultural and timber products for sale;
- seedlings used in the production of timber for sale;
- electricity used in agriculture or timber operations;
- services performed on exempt tangible personal property identified in this list; and,
- farm, timber and off-road motor vehicles.

WHAT TYPES OF ITEMS ARE NOT SUBJECT TO THIS REQUIREMENT?

A registration number is not required for the following types of agricultural items:

- horses, mules and work animals commonly used in agricultural production;
- animal life, the products of which ordinarily constitute food for human consumption, such as cattle, hogs, goats, sheep, chickens and turkeys;
- feed, including oats, corn, chicken scratch and hay, for farm and ranch animals and wildlife;
- feed for animals held for sale in the regular course of business;
- seeds and annual plants, the products of which are commonly recognized as food for humans or animals, or are usually only raised to be sold in the regular course of business such as corn, oats soybeans and cotton seed; and,

- ice used exclusively by commercial fishing boats in storing aquatic species including, but not limited to, shrimp and other crustaceans, finfish, mollusks and similar creatures.

WHO IS ELIGIBLE FOR A REGISTRATION NUMBER?

A person, including a non-Texas resident, engaged in the production of agricultural or timber products for sale in the regular course of business is eligible for a registration number that can be used to claim an exemption from Texas sales tax on the purchase of qualifying items included for eligibility for registration numbers are persons in these groups:

- farmers and ranchers who raise agricultural products to sell to others
- persons engaged in aquaculture and apiculture; (i.e. commercial fish farms or bee keepers)
- custom harvesters;
- persons engaged in agricultural aircraft operations, as defined by 14 C.F.R. Section 137.3 (crop dusting);
- commercial nurseries engaged in fostering growth of plants for sale (i.e., growing stock from seed or cuttings, replanting seedlings in larger containers); and,
- timber producers, including contract lumberjacks.

WHO IS NOT ELIGIBLE FOR A REGISTRATION NUMBER?

A person who is not engaged in the production of agricultural or timber products for sale is not eligible for a registration number and may not claim an exemption from tax when purchasing the items noted above. Examples of the types of activities that do not qualify for exemption include home gardening; horse racing; commercial nurseries and florists who only store or maintain plants prior to sale; wildlife management and/or land conservation; maintenance or operation of hunting and fishing leases; horse boarding; trail rides; commercial fishing; dog breeding and pet kennels.

HOW DO I APPLY FOR A REGISTRATION NUMBER?

Information is available on the Comptroller's website at www.cpa.state.tx.us

DOES EVERY PERSON EMPLOYED BY A FARM, RANCH OR TIMBER OPERATION NEED THEIR OWN REGISTRATION NUMBER?

The primary owner or operator of the farm, ranch or timber operation may obtain a number that can then be used by any person authorized by the registrant. For example, if three different family members operate a family farm or ranch, one member of the family can apply for one registration number for the farm that all three can then use when making qualifying purchases. Similarly, a large corporate agricultural or timber operation that employs multiple personnel may obtain one number that can be used by all authorized employees when making qualifying purchases.

It is important to note, however, that the person to whom the registration number is issued is responsible for ensuring that all items purchased exempt from tax under the permit holder's registration number will be used in a qualifying, exempt manner.

ADDITIONAL INFORMATION

See Tax Code Sections 151.316, 151.3162, 152.001(a)(13) and 152.091, as well as Rules 3.296, 3.367 and 3.72 for more information about the agricultural and timber production sales and motor vehicle tax exemptions. 📄

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