



**QUESTIONS:**

- 1) Are purchases of certain fencing items, described below, exempt from Florida sales and use tax?
- 2) Are purchases of certain power farm equipment, described below, exempt from Florida sales and use tax?
- 3) Whether the purchase and/or rental of trailers and equipment are exempt from Florida sales and use tax?
- 4) Whether electricity purchased for use on a farm is exempt from Florida sales and use tax?
- 5) How often must the exemption documentation be provided to vendors to validate that certain items are exempt from Florida sales and use tax?
- 6) Can a valid Florida exemption certificate or a Florida Farm Tax Exempt Agricultural Materials ("TEAM") card be presented to exempt a transaction from Florida sales and use tax?

**ANSWERS:**

- 1) The purchases of fencing items that are: a) used to construct or repair permanent or temporary fencing; b) incorporated into and become a component part of the constructed or repaired fencing; and c) supported with adequate exemption documentation would be exempt from Florida sales and use tax.
- 2) The purchase of items meeting the definition of power farm equipment and are adequately supported with exemption documentation would be exempt from Florida sales and use tax.
- 3) Trailers that are purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm product to another are exempt from Florida sales and use tax as long as the purchase is adequately supported with exemption documentation. Trailers that are required to be licensed as a motor vehicle under Chapter 320, F.S., are not exempt when rented.
- 4) Taxpayer's purchases of electricity used directly or indirectly for the production or processing of [REDACTED] on a farm are exempt from sales tax. Electricity used for the packing of [REDACTED] on a farm and electricity used in a packinghouse for the production, packing, or processing of [REDACTED] including packinghouses that are not located on a farm are exempt from Florida sales and use tax. This exemption does not apply to electricity used in buildings or structures where [REDACTED] are sold at retail. The exemption only applies if the electricity is separately metered from any electricity used for purposes other than production, packing or processing (such as in a retail facility), or other non-exempt use.
- 5) 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. Both the Florida farm TEAM card and exemption certificate or affidavit fall under the provisions of s. 212.084(4), F.S., which provides that the Florida farm TEAM card or exemption certificate or affidavit expires 5 years after the date of issuance.
- 6) A farmer may present a Florida farm TEAM card to a selling dealer or an exemption certificate or affidavit to the selling dealer.

December 01, 2023

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Via Email: [REDACTED]

Re: Technical Assistance Advisement – 23A-023  
[REDACTED] (“Taxpayer”)  
Sales and Use Tax – Agricultural Exemptions  
Sections 193.461, 212.02, 212.05, 212.055, 212.08, and 212.084, Florida Statutes - (“F.S.”)  
Rule 12A-1.087, Florida Administrative Code - (“F.A.C.”)  
BP #: [REDACTED]

Dear [REDACTED],

This is in response to your letter dated, [REDACTED], requesting this Department’s issuance of a Technical Assistance Advisement (“TAA”) pursuant to Section(s.) 213.22, F.S., and Rule Chapter 12-11 F.A.C, Florida Administrative Code, regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

**REQUESTED ADVISEMENTS**

- 1) Are purchases of certain fencing items, described below, exempt from Florida sales and use tax?
- 2) Are purchases of certain power farm equipment, described below, exempt from Florida sales and use tax?
- 3) Whether the purchase and/or rental of trailers and equipment are exempt from Florida sales and use tax?
- 4) Whether electricity purchased for use on a farm is exempt from Florida sales and use tax?
- 5) How often must the exemption documentation be provided to vendors to validate that certain items are exempt from Florida sales and use tax?
- 6) Can a valid Florida exemption certificate or a Florida Farm Tax Exempt Agricultural Materials (“TEAM”) card be presented to exempt a transaction from Florida sales and use tax?

**FACTS**

Taxpayer is an [REDACTED] for [REDACTED]. The [REDACTED] engage in agricultural operations on their land. All lands used in agricultural operations to [REDACTED] are classified as agricultural lands

under s. 193.461, F.S. As part of the process for [REDACTED], the [REDACTED] will buy certain pieces of fencing.

### **Fencing:**

The items purchased encompassing the **fencing category** are as follows:

1. Wood fencing materials
2. Fencing materials encompassing steel pipe, copper, poly, composite, and plastic. The poly or composite portions consist of a synthetic or fiberglass composition, as well as potentially other materials.
3. Wire fencing, including tensioners and tighteners
4. [REDACTED] – Doesn't appear to be a fencing item as it has [REDACTED]. See Power Farm Equipment and Trailers Discussion
5. [REDACTED]
6. Numerous types of gates used to confine [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. Energized fencing systems used for perimeter, interior, and rotational grazing pastures
10. Gate accessories, such as automatic opening equipment
11. Head catches and squeeze chutes
12. Parting gates
13. Loading chutes
14. Fencing specialty tools, such as fence pliers, staple pliers, fence staple guns, wire joining and stretching bars, hand post pounder, electric fence test tools, hammers, post hole diggers, crimping tool, power post hole diggers/augers, front end loaders, skid steers, and grinder mulcher heads.

### **Power Farm Equipment and Trailers**

Also purchased or rented are equipment, including replacement parts and accessories, used exclusively on a farm. The farms are engaged in the agricultural production of crops or agricultural products produced, including [REDACTED]. Some of the equipment is moving equipment containing within itself the means for its own propulsion or power. The equipment is also stationery equipment dependent upon an external power source to perform its functions. Additional equipment is used in agricultural production or to transport farm products from the farm to where the farmer transfers ownership of the farm products to another. Example of items falling within **power farm equipment and trailers** are as follows:

1. Feeder wagons
2. Feed gravity hoppers
3. Feed silo, including gravity and auger
4. An ATV (All-Terrain Vehicle) bunk storage feeder dispensers
5. Bunk feeders
6. Hay rings

7. Mineral feeders, huts, and houses
8. Creep Feeders
9. Water troughs
10. Water trough float valves
11. Purchase of new or used trailers used exclusively in agricultural production which may also be used to transport the farmer's farm equipment, or products to market
12. Purchase or rental of new or used power equipment, including replacement parts
13. Rental or purchase of trailers used exclusively in agricultural production which may also be used to transport the farmer's farm equipment or products to market
14. Rental of trailers used exclusively in agricultural production which may also be used to transport the farmer's farm equipment, or products to market if attached to a rancher's vehicle operated by rancher or his employee
15. Rental of tractor pulled fertilizer spreaders including chicken, litter, and lime
16. Rental of tractor pulled manure spreaders
17. Rental of hay trailer wagon
18. Front end loaders
19. Skid steers
20. Grinder mulcher head
21. Diggers/augers for fence post installation
22. Electric source, generator, solar and batteries, ground systems, and insulators
23. Generators on ranches
24. [REDACTED]
25. [REDACTED]

### **Electricity**

Taxpayer's members also use electricity for agricultural production purposes. The electricity used for this purpose is believed to be separately metered by the members.

### **Exemption Documentation**

Taxpayer's members plan to provide an exemption certificate or TEAM card to the retailer to exempt the transaction from sales and use tax.

### **LAW AND DISCUSSION**

Unless a specific exemption applies, s. 212.05, F.S., provides it is the legislative intent that every person is exercising a taxable privilege that engages in the business of selling tangible personal property at retail in this state. For exercising such a privilege, a tax is levied on each taxable transaction or incident. The tax is due and payable at the rate of 6 percent, plus any applicable surtaxes imposed under s. 212.055, F.S., on the total consideration received for each item or article of tangible personal property when sold at retail in this state.

No transactions shall be exempt from the tax imposed by Chapter 212, F.S., except those expressly exempt (See s. 212.08(13), F.S.).

Florida courts have consistently held that exemptions must not be expanded beyond their express terms and must be strictly and narrowly construed against the taxpayer. See Department of Revenue v. Anderson, 403 So.2d 397 (Fla. 1981); State ex rel. Szabo Food Services, Inc. v. Dickinson, 286 So.2d 529 (Fla. 1973). See also Asphalt Pavers v. Dept. of Revenue, 584 So.2d 55 (Fla. 1<sup>st</sup> DCA 1991), at 57.

Chapter 2023-157, Section 24, Laws of Florida added the following exemption language regarding fencing to s. 212.08(5)(a), F.S.:

There are exempt from the tax imposed by this chapter . . .

materials used to construct or repair permanent or temporary fencing used to contain, confine, or process cattle, including gates and energized fencing systems, used in agricultural operations on lands classified as agricultural lands under s. 193.461;

This exemption is not allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated on the certificate.

This exemption became effective July 1, 2023. Materials used to construct or repair permanent or temporary fencing means those materials that are incorporated into and become a component part of the constructed or repaired fencing. A suggested exemption certificate for the purchase of qualifying fencing materials can be found at the following link: [https://floridarevenue.com/taxes/tips/Documents/TIP\\_23A01-15.pdf](https://floridarevenue.com/taxes/tips/Documents/TIP_23A01-15.pdf).

Section 212.08(3)(a), F.S., provides an exemption for the sale, rental, lease, consumption, repair, or storage for use in this state of power farm equipment,<sup>1</sup> including replacement parts and accessories, used exclusively on a farm. This exemption is not forfeited by moving farm equipment between farms. However, this exemption shall not be allowed unless the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used exclusively on a farm for agricultural production<sup>2</sup> as required by this subsection. A suggested exemption certificate is contained in Rule 12A-1.087(10), F.A.C.

Rule 12A-1.087(6)(a), F.A.C., provides that “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.”

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<sup>1</sup> Section 212.02(30), F.S., defines “power farm equipment” as “moving or stationary equipment that contains within itself the means for its own propulsion or power and moving or stationary equipment that is dependent upon an external power source to perform its functions.”

<sup>2</sup> Section 212.02(32), F.S., defines “agricultural production” as “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, including storage of raw products on a farm. The term includes . . . livestock . . . and any and all forms of farm products and farm production.”

Section 212.08(3)(b), F.S., provides that “tax may not be imposed on the sales price for a trailer purchased by a farmer for exclusive use in agricultural production or to transport farm products from his or her farm to the place where the farmer transfers ownership of the farm products to another. This exemption is not forfeited by using a trailer to transport the farmer’s farm equipment. The exemption provided under this paragraph does not apply to the lease or rental of a trailer.”

Section 212.08(3)(c), F.S., provides that “the exemptions provided in paragraphs (a) and (b) are not allowed unless the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used exclusively as required under this subsection. Possession by a seller, lessor, or other dealer of a written certification by the purchaser, renter, or lessee certifying the purchaser’s, renter’s, or lessee’s entitlement to an exemption permitted by this subsection relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption.”

Rule 12A-1.087(10)(c), F.S., provides that “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.”

Rule 12A-1.087(10)(a), F.A.C., provides that any purchaser who purchases items for agricultural purposes must 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.

Rule 12A-1.087(7)(a), F.A.C., provides that “generators, motors, and similar types of equipment used exclusively as a power source on a farm . . . are exempt from tax.”

Section 212.08(5)(e)2., F.S., provides that electricity used directly or indirectly for the production or processing of agricultural products on a farm<sup>3</sup> is exempt from sales tax. Electricity used for the packing of agricultural products on a farm and electricity used in a packinghouse for the production, packing, or processing of agricultural products, including packinghouses that are not located on a farm is exempt from Florida sales and use tax. “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 does not apply to electricity used in buildings or structures where agricultural products are sold at retail. The exemption only applies if the electricity is separately metered from any electricity used for purposes other than production, packing or processing (such as in a retail facility), or other non-exempt use.

To qualify for the exemption, the purchaser must furnish the utility provider with an exemption certificate stating that the electricity will be used for the production, packing, or processing of

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<sup>3</sup> Rule 12A-1.087(9)(b), F.A.C., provides that “for purposes of this subsection, a farm means the land, building, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.”

agricultural products on a farm or will be used in a packinghouse. In instances where the utility provider accepts an exemption certificate in good faith, the Department will look to the purchaser for any applicable tax, penalty, or interest due. Utility providers that currently have on record an exemption certificate from the purchaser for electricity used in the production or processing of agricultural products on a farm are not required to obtain a new certificate from the purchaser. A suggested exemption certificate is contained in Rule 12A-1.087(9)(c), F.A.C.

Section 212.08(19), F.S. provides:

(19) FLORIDA TEAM CARD. –

- (a) Notwithstanding any other law, a farmer whose property has been classified as agricultural pursuant to s. 193.461 or who has implemented agricultural best management practices adopted by the Department of Agriculture and Consumer Services pursuant to s. 403.064(7)(c)2. may apply to the department for a Florida farm tax exempt agricultural materials (TEAM) card to claim the applicable sales tax exemption provided in this section. A farmer may present the Florida farm TEAM card to a selling dealer in lieu of a certificate or affidavit otherwise required by this chapter.
- (b) The Florida farm TEAM card is subject to the review and expiration provisions of s. 212.084.
- (c) For items purchased tax exempt pursuant to this subsection, proof of acceptance by a selling dealer of a Florida team TEAM card from a purchaser relieves the selling dealer of the responsibility of collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.
- (d) The department shall accept Florida farm TEAM card applications beginning on January 1, 2024.

Section 212.084(4), F.S., provides that “each sales tax exemption certificate expires 5 years after the date of issuance. Upon expiration, the certificate is subject to the review and reissuance procedures provided by this section.”

Section 212.02(28), F.S., defines the term, “farmer,” as “a person who is directly engaged in the business of producing . . . livestock. . . .<sup>4</sup> The term includes . . . [REDACTED] . . . .”

**CONCLUSION**

I will restate the items presented for advisement and follow with whether the items are subject to Florida sales and use tax (**Taxable**) or exempt from Florida sales and use tax (**Exempt**):

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<sup>4</sup> Section 212.02(29), F.S., defines “livestock” to include . . . [REDACTED] . . . raised for commercial purposes . . . .

## FENCING

If an item is deemed exempt below, it is under the premise that such item is incorporated into and becomes a component part of the constructed or repaired fencing.

1. Wood fencing materials - **Exempt**
2. Fencing materials encompassing steel pipe, copper, poly, composite, and plastic. The poly or composite portions consist of a synthetic or fiberglass composition, as well as potentially other materials. - **Exempt**
3. Wire fencing, including tensioners and tighteners - **Exempt**
4. ██████████ – **Not Applicable**
5. ██████████ - **Exempt**
6. Numerous types of gates used to confine ██████████ - **Exempt**
7. ██████████ - **Exempt**
8. ██████████ – **Exempt**
9. Energized fencing systems used for perimeter, interior, and rotational grazing pastures - **Exempt**
10. Gate accessories, such as automatic opening equipment - **Exempt**
11. Head catches and squeeze chutes - **Exempt**
12. Parting gates - **Exempt**
13. Loading chutes - **Exempt**
14. Fencing specialty tools, such as fence pliers, staple pliers, fence staple guns, wire joining and stretching bars, hand post pounder, electric fence test tools, hammers, post hole diggers, crimping tool, power post hole diggers/augers, front end loaders, skid steers, and grinder mulcher heads. – **Taxable as “fencing” items. Please refer to power farm equipment below, as some items may be exempt as power farm equipment.**

## POWER FARM EQUIPMENT AND TRAILERS

1. Feeder wagons - **Exempt**
2. Feed gravity hoppers – **Taxable**
3. Feed silo, including gravity (**Taxable**) and auger (**Exempt**)
4. An ATV (All-Terrain Vehicle) bunk storage feeder dispensers - **Exempt**
5. Bunk feeders - **Taxable**
6. Hay rings - **Taxable**
7. Mineral feeders, huts, and houses - **Taxable**
8. Creep Feeders - **Taxable**
9. Water troughs - **Taxable**
10. Water trough float valves – **Exempt if with a pump**
11. Purchase of new or used trailers used exclusively in agricultural production which may also be used to transport the farmer’s farm equipment, or products to market - **Exempt**
12. Purchase or rental of new or used power equipment, including replacement parts – **Exempt if it meets the definition of power farm equipment**
13. Rental or purchase of trailers used exclusively in agricultural production which may also be used to transport the farmer’s farm equipment or products to market – **Purchase is Exempt.**





provisions of s. 212.084(4), F.S., which provides that the Florida farm TEAM card or exemption certificate or affidavit expires 5 years after the date of issuance.

This response constitutes a TAA under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for TAA, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the Taxpayer. Your response should be received by the Department within ten (10) days of the date of this letter.

If you have any further questions with regard to this matter and wish to discuss them, you may contact me directly at (850)717-6363.

Sincerely,

*Leigh L. Ceci*

Leigh L. Ceci, MAcc  
Tax Law Specialist  
Technical Assistance & Dispute Resolution  
(850)717-6363

CC: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Record ID: 7001066778

### TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's access bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7001066778

Respondent code: 44

Tax type: Sales and Use Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at [douglas.charity@floridarevenue.com](mailto:douglas.charity@floridarevenue.com).

Thank you.