



# MAINE REVENUE SERVICES SALES, FUEL & SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN NO. 14

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## SEED, FEED, FERTILIZER AND OTHER ITEMS USED IN AGRICULTURAL AND AQUACUTLURAL PRODUCTION

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This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. It contains general and specific information of interest as well as interpretations and determinations by Maine Revenue Services regarding issues commonly faced by your business. Portions of the Sales and Use Tax Law referred to in this bulletin can be found at the end of the bulletin in Attachment #1.

This bulletin addresses products that are used in aquacultural production, commercial agricultural crop production, and animal agriculture. Products that qualify for exemption as well as those that do not qualify will be addressed. Activities that fall into the three categories will also be discussed.

### 1. PRODUCTS USED IN AQUACULTURAL PRODUCTION

Sales of feed, hormones, pesticides, antibiotics and medicines used in aquacultural production, and bait sold to commercial fishermen, are exempt from sales or use tax.

**A. Feed.** Sales of feed used in aquacultural production, including feed for lobsters in tidal circulating lobster pounds, are exempt. This exemption does not include sales of water.

**B. Antibiotics and medicines.** Sales of medicines used for the treatment of animals, fish and shellfish in the course of aquacultural production, including antibiotics used for the treatment of lobsters kept in tidal circulating lobster pounds, are exempt.

**C. Bait sold to commercial fishermen.** Sales of bait to commercial fishermen, who hold a valid Maine Commercial Fishing Exemption card, are exempt from sales or use tax.

Some products which do not qualify for this exemption is feed for lobsters kept in tanks for sale for resale or at retail and products used by aquariums or zoos.

### 2. PRODUCTS USED IN COMMERIAL AGRICULTURAL CROP PRODUCTION

**Please Note:** This exemption is not available for non-commercial agricultural crop production such as home gardens. All sales of seed, seedlings and other products listed within this provision, when sold for use in a home garden, are subject to tax.

Sales of seed, fertilizer, defoliant, pesticides, insecticides, fungicides and weed killers for use in commercial agricultural production of crops, are exempt from sales or use tax. "Crops" are "cultivated agricultural plants as grain, vegetables or fruit."

**A. Seed.** Sales of seed used in the commercial agricultural production of crops are exempt. "Seed" includes tubers, bulbs and corms used as seeds. The exemption includes all seed sold for producing plants that ultimately and primarily produce a product for human or animal consumption.

**B. Pesticides.** Sales of poisons intended for the destruction of rodents and other animals that are damaging to the commercial agricultural production of crops, such as rat poisons and woodchuck bombs, are exempt, but repellents of any kind are not exempt.

**C. Insecticides.** Sales of preparations intended for the destruction of insects harmful to the commercial agricultural production of crops are not taxable. The exemption does not apply, however, to products intended for household use, such as mothballs, ant traps, and insecticides in aerosol containers, or to preparations intended for personal use such as insect repellents.

**D. Fungicides, weed killers and defoliants.** All sales of fungicides, weed killers and defoliants used in commercial agricultural production are exempt.

The Law does **not** exempt from tax the sale of flower seeds, lawn seed, or shrubs, trees, seedlings, and plants of any kind except when sold for resale as tangible personal property.

Commercial agricultural production of crops does not include tree farming.

### **3. PRODUCTS USED IN ANIMAL AGRICULTURE**

Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production are exempt from sales or use tax.

"Animal agricultural production" includes:

**A.** The keeping and raising of animals which are producers of food or will become food products themselves such as cows, pigs, chickens, bees, deer, game birds and goats;

**B.** The keeping and raising of animals which are producers of other products such as fur-bearing animals, sheep, llamas, alpacas, deer for fleece or antler velvet; and

**C.** The keeping and raising of equines (horses);

Although this exemption applies to noncommercial as well as commercial activities, it does not apply to the following types of businesses or activities as they are not deemed to be animal agricultural production:

circuses	carnivals
aquariums	breeding or raising of pets
zoos	

#### **4. LITTER.**

All sales of litter for use in agricultural production are exempt. "Litter" includes wood shavings and sawdust. Sales of organic bedding materials for farm animals and hay are also exempt.

#### **5. ANTIBIOTICS AND MEDICINES.**

Sales of medicines used for the treatment of animals, fish and shellfish in the course of agricultural and aquacultural production, including antibiotics used for the treatment of lobsters kept in tidal circulating lobster pounds, are exempt.

#### **6. SALES OF ANIMALS, FISH & SHELLFISH**

The retail sale of all animals, except those that are being raised as food products or for food production, are taxable transactions. The sale of any animal by a person not engaged in making retail sales is considered a casual sale which is not subject to tax. Some examples of taxable transactions are:

- i. Sales of animals and fish by pet stores;
- ii. Sales by animal breeders such as dogs, cats and horses;
- iii. Sales of horses at claiming races
- iv. Sales of bait used in sport fishing

#### **7. FUEL FOR BURNING BLUEBERRY LANDS.**

Sales of all fuels used in burning blueberry lands are exempt. In order to document the exempt sale, the retailer should obtain a signed statement from the purchaser describing its business activity and the fact that the fuel being purchased is to be used in burning blueberry fields.

#### **8. EXCEPTIONS.**

As previously mentioned, sales of the items addressed in this bulletin, when sold to persons who are not engaged in agricultural production, are taxable. However, there may be instances where such a person may in fact use the item in agricultural production. If the purchaser makes such a claim, the re-

tailer must obtain a statement from the purchaser attesting to the fact that the item will be used in agricultural production.

**9. ADDITIONAL INFORMATION.**

The information in this bulletin addresses some of the more common questions regarding the Sales and Use Tax Law faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

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**ATTACHMENT #1**  
**Excerpts taken from 36 M.R.S.A.**

**36 §1760. Exemptions**

No tax on sales, storage or use shall be collected upon or in connection with:

**7-A. Products used in aquacultural production and bait.** Sales of feed, hormones, pesticides, antibiotics and medicine for use in aquacultural production and sales of bait to commercial fishermen.

**7-B. Products used in commercial agricultural crop production.** Sales of seed, fertilizers, defoliant and pesticides, including, but not limited to, rodenticides, insecticides, fungicides and weed killers, for use in the commercial production of an agricultural crop.

**7-C. Products used in animal agriculture.** Sales of breeding stock, semen, embryos, feed, hormones, antibiotics, medicine, pesticides and litter for use in animal agricultural production. Animal agricultural production includes the raising and keeping of equines.

**9-A. Fuels for burning blueberry lands.** Sales of all fuels used in burning blueberry fields.

**78. Farm animal bedding and hay.** Sales of organic bedding materials for farm animals and hay.

**Relevant Rules:** None