



**Sales and Use Tax Division
North Carolina Department of Revenue
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**IMPORTANT NOTICE: QUALIFYING FARMER AND
CONDITIONAL FARMER EXEMPTION**

Effective July 1, 2014, N.C. Gen. Stat. § 105-164.13E(a), which provides an exemption from sales and use tax for certain tangible personal property, digital property, and services purchased by a qualifying farmer for farming purposes, as defined herein, is rewritten to provide an amended definition of the term “qualifying farmer.” Additionally, effective July 1, 2014, N.C. Gen. Stat. § 105-164.13E as rewritten allows certain persons engaged in farming operations that otherwise do not meet the definition of the term “qualifying farmer” to apply for a conditional farmer exemption certificate.

Qualifying Farmer Exemption

Effective July 1, 2014, for purchases made on or after that date, N.C. Gen. Stat. § 105-164.13E is amended to provide that a “qualifying farmer” is a person who has an annual gross income for the preceding income tax year of ten thousand dollars (\$10,000) or more from farming operations or who has an average annual gross income for the three preceding income tax years of ten thousand dollars (\$10,000) or more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in N.C. Gen. Stat. § 106-758.

Tangible personal property, digital property, and services exempt from sales and use tax when purchased by a qualifying farmer for use in farming operations are set out in N.C. Gen. Stat. § 105-164.13E. For purposes of the exemption, an item is used in “farming operations” if it is used for the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals.

To apply for a qualifying farmer exemption certificate number, complete and submit [Form E-595QE](#), Application for Qualifying Farmer Exemption Certificate Number for Qualified Purchases, to the Department. **The qualifying farmer exemption certificate expires when a person fails to meet the income threshold for three consecutive income tax years or ceases to engage in farming operations, whichever comes first.**

Conditional Farmer Exemption

Effective July 1, 2014, for purchases made on or after that date, N.C. Gen. Stat. § 105-164.13E is amended to add subsection (b) to provide that a person who does not meet the definition of the term “qualifying farmer,” may apply to the Department for a conditional farmer exemption certificate number. A person issued a conditional farmer exemption certificate bearing an exemption number issued by the Department may purchase qualifying items exempt from sales and use tax to the same extent as a “qualifying farmer,” as defined above. To receive a conditional farmer exemption certificate, the person must certify that the person intends to

engage in farming operations, as described above, and that the person will timely file State and federal income tax returns that reflect income and expenses incurred from farming operations during the income tax years that the conditional farmer exemption certificate is valid.

A conditional farmer exemption certificate issued by the Department is valid for the income tax year in which the certificate is issued and the following two income tax years, provided the person to whom the certificate is issued submits copies of applicable State and federal income tax returns to the Department within 90 days following the end of each income tax year covered by the conditional farmer exemption certificate. The Department will provide the procedures on its website by January 1, 2015 that a person issued a conditional farmer exemption certificate should use to submit the required documentation to the Department within 90 days following the end of each income tax year covered by the conditional farmer exemption certificate. **A conditional farmer exemption certificate may not be extended or renewed beyond the original three-year period.** However, where a person that meets the requirements of a qualifying farmer prior or subsequent to the expiration of a conditional farmer exemption certificate, the person may complete and submit [Form E-595QF](#) to the Department to receive a qualifying farmer exemption certificate number.

A person who purchases items with a conditional farmer exemption certificate number must maintain documentation of the items purchased and copies of State and federal income tax returns that reflect activities from farming operations for the period of time covered by the conditional farmer exemption certificate and for three years following the expiration of the conditional farmer exemption certificate. The Department may require a person who was issued a conditional farmer exemption certificate number to provide any other information it requests to verify that the person met the conditions required for the conditional farmer exemption certificate. A person who fails to provide the information requested by the Department in a timely manner, or who fails to meet the requirements for the conditional farmer exemption, becomes liable for any taxes for which an exemption was claimed by the person. The taxes become due and payable at the expiration of the conditional farmer exemption certificate, and interest accrues from the date of each purchase. Additionally, where the person does not timely provide the information requested by the Department, the \$250.00 misuse of exemption certificate penalty, per N.C. Gen. Stat. § 105-236(a)(5a), applies to each seller identified by the Department from which the person made a purchase.

To apply for a conditional farmer exemption certificate number, complete and submit [Form E-595CF](#), Application for Conditional Farmer Exemption Certificate Number for Qualified Purchases, to the Department. The Department may not issue a conditional farmer exemption certificate to a person who has had a conditional farmer exemption certificate issued during the prior 15 income tax years.

Administration of Exemption Certificates

A person who no longer qualifies for a qualifying farmer exemption certificate number or conditional farmer exemption certificate number at any time or a person that was issued a conditional farmer exemption certificate that is no longer valid, must give notice to each seller that may rely on the qualifying or conditional farmer exemption certificate or number, on or before the next purchase. Additionally, such person must notify the Department within 30 days to cancel the number. A person who purchases an item under an exemption certificate or exemption number is liable for any tax due on the purchase if the Department determines that the person is not eligible for the exemption certificate, the person purchased items that do not qualify for an exemption under the certificate or number, or the person purchased items from a retailer that relied on an exemption certificate that is no longer applicable.

Exemption Certificate Transition

A person that meets the requirements for a qualifying farmer as of July 1, 2014, and who has an **agricultural exemption certificate number**, may continue to use the agricultural exemption certificate number for qualifying purchases made prior to October 1, 2014. Upon receipt of a **qualifying farmer exemption certificate** issued by the Department, the qualifying farmer must issue a new Form E-595E, Streamlined Sales and Use Tax Agreement Certificate of Exemption, or other exemption information required per N.C. Gen. Stat. § 105-164.28 to each retailer, which should include the qualifying farmer exemption certificate number in order to claim an exemption from sales and use tax on qualifying purchases for use in farming operations.

Effective October 1, 2014, any Form E-595E or other exemption information previously provided by a person to a retailer containing an agricultural exemption certificate number to claim an exemption from sales and use tax for qualifying purchases for use in farming operations is invalid. Such agricultural exemption certificates issued by the Department prior to July 1, 2014 bear an agricultural exemption certificate number which generally is six digits and begins with the numeral one.

Seller's Responsibilities and Relief from Liability

For qualifying purchases of items for farming operations on or after October 1, 2014, a seller that does not have a Form E-595E or other exemption information containing a qualifying farmer exemption certificate number, which is a six digit number that begins with the numeral seven, or a conditional farmer exemption certificate number, a six digit number that begins with numeral eight, must charge and collect any tax due on the sale.

A seller that relies on a Form E-595E provided to the seller by a purchaser claiming an exemption for farming or agricultural purposes that includes a qualifying farmer or conditional farmer exemption number or where data requirements are maintained per the requirements of N.C. Gen. Stat. § 105-164.28, is not liable for any tax due on a sale to such person. If the purchaser fails to give proper notice that the exemption information should no longer be relied upon or where a purchaser claims an invalid exemption, the purchaser is liable for any tax, penalty, and interest due on such purchase unless the retailer is involved in any of the fraud activities listed in N.C. Gen. Stat. § 105-164.28(c).

Assistance

Questions about this notice can be directed to the Taxpayer Assistance and Collection Center at telephone number 1-877-252-3052 (toll-free).