

## DEISEL FUEL IN FARMING OR FOOD PROCESSING

*Most sales of diesel fuel are taxable. However, certain sales and purchases of diesel fuel used in farming activities or food processing qualify for a partial exemption from the sales or use tax, as explained in this section. The section includes information for fuel sellers and buyers. For more information, see [Regulation 1533.2](#), Diesel Fuel Used in Farming Activities or Food Processing.*

### CALCULATING TAX ON DIESEL FUEL WHEN THE PARTIAL EXEMPTION APPLIES

The partial tax exemption for certain sales and purchases of diesel in farming activities or food processing applies only to the state general and fiscal recovery funds portion of the sales tax, currently 7.25 percent (see Note, below). To calculate the non-exempt tax rate for a qualifying transaction, subtract 7.25 percent from the sales tax rate that would apply if the sale were fully taxable. For example, if the full tax rate that applies to a taxable sale of diesel fuel is 9.25 percent, the tax rate for a qualifying sale is 2.00 percent (9.25 percent-7.25 percent=2.00 percent)

### **Partial tax exemption basic requirements**

The Partial exemption applies to the sale or purchase of diesel fuel only if the diesel meets the following two requirements:

- Be a type of diesel that qualifies for the exemption, and
- Be used in qualifying farming activities or food processing, or related contract hauling.

The following sections provide more information.

### **Types of diesel fuel**

For purposes of this partial exemption, “diesel fuel” includes only three types of diesel:

- Diesel that meets American Society for Testing and Materials (ASTM) standard D 975-1, commonly or commercially known, sold or represented as diesel fuel No. 1-D or No. 2-D.
- Diesel that meets ASTM standard D 1655, when sold for use in agricultural aircraft.
- EPA-rate diesel, commonly known as “federal fuel.”

Retailers should identify the type of diesel fuel on their sales invoices and retain records, showing that the diesel fuel meets the ASTM or EPA standards. As a retailer, it is important to retain records showing that sales tax reimbursement was charges on the diesel fuel.

### **Qualifying activities: farming, food processing, contract hauling**

The partial tax exemption for the sale of diesel applies only if the diesel will be used in qualifying activity in one of these categories

- Farming
- Food processing
- Contract hauling (related to farming and food processing)

### ***Diesel Fuel Exemption***

You may also qualify for the diesel fuel tax exemption. For more information about the diesel fuel tax exemption, please see [Regulation 1431](#). *Diesel Fuel Used on a Farm for Farming Purposes*, and visit the website at [http://boe.ca.gov/sptaxprog/refund/faq\\_farmer.htm](http://boe.ca.gov/sptaxprog/refund/faq_farmer.htm)

## ***Farming***

The partial exemptions may apply to diesel sales to the following people who use diesel fuel in carrying out farming activities, as described in the next section:

- Ranchers or farmers in the business of conducting farming activities
- People who conduct farming activities for those ranchers or farmers on a contract basis, such as aerial operators who apply fertilizers, seeds, or pesticides to agricultural or horticultural products owned by ranchers or farmers.

## ***Qualifying farming activities***

In general, farming activities include the following:

- Cultivating land.
- Raising or harvesting of any plant or animal that can be legally sold to others. Raising a plant or animal means holding it for further cultivation or development before sale.
- Delivering feed to an animal feeding operation, by a person who owns or supplies the feed.
- Transporting agricultural products to certain businesses that will prepare the products for sale. The business must be wholly or partially owned by the farmers or ranchers whose products it processes. It can be cooperative, joint venture, corporation, partnership, or similar business (see [Contract hauling](#)).
- Performing certain activities to prepare agricultural products for sale. The activity must be performed by a business that is wholly or partially owned by the farmers or ranchers whose products it processes. It can be cooperative, joint venture, corporation, partnership, or similar business (see [By a business wholly or partially owned or financed by a farmer or rancher](#)).
- Transporting agricultural products to buyers, when the transporting is done by a cooperative, joint venture, corporation, partnership, or similar business that is wholly or partially owned by the farmers or ranchers whose products it processes or transports. The farmer, rancher, or entity must fully or partially own the transported product.
- Aerially applying fertilizers, seeds, pesticides, and similar products to farm land, when that application is done by a licensed aerial applicator.

The following do not qualify as farming activities for purposes of the partial exemption:

- Buying and selling plants or animals raised by someone else.
- Activities that are not directly part of cultivating, harvesting, or raising plants or animals, such as construction, repair, or maintenance of farm equipment or buildings.
- Raising agricultural or horticultural products or the grower's home or personal use.

## ***Examples of diesel used in farming activities***

### ***By a farmer or rancher***

Sales of diesel fuel will qualify for the partial tax exemption if the purchasing farmer or rancher used the fuel to:

- Prepare land for planting
- Plant, protect, or grow crops
- Harvest crops
- Feed, water, or transport livestock
- Transport the harvested agricultural or horticultural products from the field or ranch to buyers.

To view more information about qualifying crop preparations Services for Market [click here](#).

To view more information about qualifying crop planting, cultivating, and protecting [click here](#).

### ***By a business wholly or partially owned or financed by a farmer or rancher***

Ranchers and farmers may wholly or partially own or finance agricultural processing and marketing businesses including cooperatives, joint ventures, corporations, and partnerships. The purchase of diesel by one of these businesses qualifies for the partial tax exemption when the diesel is used in preparing an owner's agricultural or horticultural products for sale or transporting those products to buyers. This includes using diesel for either of the following purposes:

- To prepare the agricultural or horticultural product for sale. Preparation can include cleaning, sorting, packing, and some activities such as slaughtering, freezing, and homogenizing.
- To transport the prepared product to the point where it is sold at retail, at wholesale, or for consumption at an animal feeding operation.

*Example:* A farmer raises lemons and sells the crop to a citrus cooperative in which he holds shares. The cooperative grades and packs the farmer's lemons and sells them to a grocery distributor. In this example, these diesel sales would qualify for the partial exemption.

1. The sale to the farmer of diesel the farmer uses to transport the lemons to the cooperative,
2. The sale to the cooperative of diesel it uses to grade or pack the farmer's lemons, and
3. The sale to the cooperative of diesel it uses to haul the products to grocery distributor.

### ***Food processing***

Qualified food processing businesses

The partial exemption for diesel used in food processing is available only to certain businesses. To qualify, the business's activities must fall within one of the following SIC Groups or Codes:

- 201 Meat Products
- 202 Dairy Product
- 203 Canned, Frozen, and Preserved Fruits, Vegetables, and Food Specialties
- 204 Grain Mill Products
- 207 Fats and Oils
- 2068 Salted and Roasted Nuts and Seeds
- 2084 Wines, Brandy, and Brandy Spirits

For more details on the types of business in these groups and codes, see the descriptions in the Agricultural Industry publication, page 35, [Appendix C](#).

### ***Examples of diesel used in food processing activities***

The sale of diesel fuel to a qualified food processor may be eligible for the partial tax exemption. The food processor must use the diesel in one of the following ways:

- Hauling a raw agricultural product to the processing plant. Raw agricultural product means an unprocessed product such as grain, vegetable, fruit, or livestock.
- Processing agricultural products. This includes using diesel to run processing equipment, backup generators, and equipment used to move the product during processing.
- Hauling supplies and materials to the processing plant. This includes only items used in production the processed food product, such as cans, labels, and ingredients.
- Hauling partially processed food products between processing plants owned by the same company. For example, one division of a company processes tomatoes into tomato paste.

Another division used the paste to produce spaghetti sauce. Moving the paste between the two plants is a qualifying food processing activity.

**Please note:** Diesel used in an activity that occurs after the food processing is complete does not qualify for the exemption. For example, diesel used to move a product from the processing plant to a warehouse prior to sale does not qualify.

### ***Contract Hauling***

The sale of diesel to a person who contracts to haul agricultural products for a rancher, farmer, or food processor may qualify for the partial tax exemption. The contractor must use the diesel to:

- Transport-to buyers or intermediate points for handling-agricultural products produces and owned by a farmer, rancher, or a business wholly or partially owned by a rancher or farmer(see [Qualifying activities: Farming, food processing, contract hauling](#)).
- Transport raw products, materials, and supplies for a food processor (see [Food Processing](#)).

Please see the sections on farming and food processing for details regarding the types of transports that qualify for the partial exemption.

### **Exemption certificates, diesel partial exemption**

It is important that retailers obtain timely and complete exemption certificates from purchasers who wish to claim the partial exemption. Retailers must accept the certificates in good faith and keep all exemption certificates of file to support their partially exempt sales.

To obtain the diesel partial exemption, a rancher, farmer, food processor, or contract hauler should give the retailer a partial exemption certificate. Often, only retailers who make bulk deliveries of diesel fuel or sell through cardlock facilities will accept the partial exemption certificate. Buyers may provide an exemption certificate for each purchase or a *blanket exemption certificate* to cover the current purchase and future purchases. If only part of a buyer's diesel purchases qualifies for the partial exemption, a buyer filing a blanket exemption certificate must indicate the percentage of exempt use. They buyer should average the percentage over a normal operating cycle and periodically recalculate it, since the amount of exempt use may vary from year to year.

### ***Examples, blanket partial exemption certificates***

A farmer who purchases bulk diesel has two tanks: a larger tank for dyed diesel, used for fueling tractors and other field equipment, and a smaller tank for clear diesel, used for fueling pickup trucks and personal cars. All of the dyed diesel and 75 percent of the clear diesel is used in farming activities. The remaining 25 percent of the clear diesel is used for personal business not associated with farming. The nonfarm use is reasonably consistent throughout the year. The farmer may give a blanket partial exemption certificate to the retailer claiming a partial exemption on 100 percent of the dyed diesel and 75 percent of the clear diesel.

A trucking company hauls agricultural products to processing plants during the summer and hauls other products the rest of the year. The company buys 40,000 gallons of diesel a year and uses 25 percent of it, 10,000 gallons, for hauling the agricultural products. The company may give a blanket partial exemption certificate to the retailer claiming the partial exemption on 25 percent of each diesel purchase, regardless of when the company makes the purchase.

For more information of exemption certificates, retailer responsibilities, and a sample certificate see [Appendix A](#)

