

**RULES
OF
GEORGIA DEPARTMENT OF AGRICULTURE**

**CHAPTER 40-29
GEORGIA AGRICULTURE TAX EXEMPTION**

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40-29-.01 Definitions

- (1) “Agricultural product” – Items produced by agricultural operations.
- (2) “Agricultural operations” – Used synonymously with ‘agricultural purposes’ and means the following activities: raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, equine, or other animals; producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products; processing poultry; post-harvest services on crops with the intent of preparing them for market or further processing, including but not limited to crop cleaning, drying, shelling, fumigating, curing, sorting, grading, packing, ginning, canning, pickling, and cooling; slaughtering poultry and other animals; and manufacturing dairy products. Agricultural operations does NOT include constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.
- (3) “Animal” – Synonymous with “livestock” and means living organisms that are commonly regarded as farm animals, organisms that produce tangible personal property for sale, or organisms that are processed, manufactured, or converted into articles of tangible personal property for sale. The term does not include living organisms that are commonly regarded as domestic pets or companion animals.
- (4) “Georgia Agriculture Tax Exemption (**GATE**) Certificate” – An agricultural sales and use tax exemption certificate issued by the Georgia Department of Agriculture that identifies its user as a qualified agriculture producer.
- (5) “Georgia Tax Exemption Advisory Board” – A board appointed by the Commissioner in accordance with the Official Code of Georgia, Title 48, Chapter 8, Section 3.3.
- (6) “Commissioner” – The Commissioner of the Georgia Department of Agriculture, or his designee.
- (7) “Department” – The Georgia Department of Agriculture.
- (8) “On Farm” – Where an agricultural product is produced or harvested.

Authority: O.C.G.A. § 48-8-3.3. History: New Rule entitled “Definitions” adopted: F. Oct. 30, 2012; eff. Nov. 19, 2012. Amended: F. Sep. 4, 2013; eff. Sep. 24, 2013.

Rule 40-29-.02. Application for Authorization to Attain a Georgia Agriculture Tax Exemption (GATE) Certificate

- (1) No person or entity shall utilize a GATE Certificate unless prior application for certification or licensing has been made to the Department and permission to make such use has been granted by the Commissioner.
- (2) Only Qualified Agriculture Producers are authorized to use the GATE Certificate.
- (3) 'Qualified Agriculture Producer' includes producers of agricultural products or services who meet one of the following criteria:
 - (a) The person or entity is the owner or lessee of agricultural land or other real property from which \$5,000.00 or more of agricultural products in aggregate were produced and sold during the year, including payments from government sources;
 - (b) The person or entity is in the business of performing agricultural operations and has provided \$5,000.00 of such services during the year;
 - (c) The person or entity is in the business of producing long-term agricultural products from which there might not be annual income, including, but not limited to, timber, pulpwood, orchard crops, pecans, livestock, and horticultural or other multiyear agricultural or farm products. Applicants must demonstrate that sufficient volumes of such long-term agricultural products will be produced which have the capacity to generate in aggregate at least \$5,000.00 in annualized sales in the future; or
 - (d) The person or entity must establish, to the satisfaction of the Commissioner of Agriculture, the person or entity is actively engaged in the production of agricultural products and has or will have created sufficient volumes to generate in aggregate at least \$5,000.00 in annualized sales.
- (4) The person or entity seeking a GATE Certificate may be regarded as an agriculture producer under one or more of following NAICS codes. North American Industry Classification System (NAICS) Codes can be found online at www.census.gov and shall be used by applicant to determine which code the person or entity may fall under for purposes of eligibility when applying for a GATE Certificate:

2017 NAICS US Code	2017 NAICS US Title
11111	Soybean Farming
11112	Oilseed (except Soybean) Farming
11113	Dry Pea and Bean Farming
11114	Wheat Farming
11115	Corn Farming

11116	Rice Farming
11119	Other Grain Farming
1112	Vegetable and Melon Farming
111219	Other Vegetable (except Potato) and Melon
1113	Fruit and Tree Nut Farming
111334	Berry (except Strawberry) Farming
1114	Greenhouse, Nursery, and Floriculture Production
111421	Nursery and Tree Production
11191	Tobacco Farming
11192	Cotton Farming
11193	Sugarcane Farming
11194	Hay Farming
111991	Sugar Beet Farming
111992	Peanut Farming
111998	All Other Miscellaneous Crop Farming
11211	Beef Cattle Ranching and Farming, including Feedlots
11212	Dairy Cattle and Milk Production
11213	Dual-Purpose Cattle Ranching and Farming
1122	Hog and Pig Farming
11231	Chicken Egg Production
11232	Broilers and Other Meat Type Chicken Production
11233	Turkey Production
11234	Poultry Hatcheries
11239	Other Poultry Production
112390	Other Poultry Production
1124	Sheep and Goat Farming
1125	Aquaculture
112519	Other Aquaculture
11291	Apiculture
11292	Horses and Other Equine Production
11293	Fur-Bearing Animal and Rabbit Production
11299	All Other Animal Production
112990	All Other Animal Production

1131	Timber Tract Operations
1132	Forest Nurseries and Gathering of Forest Products
1133	Logging
11511	Support Activities for Crop Production
115111	Cotton Ginning
115112	Soil Preparation, Planting, and Cultivating
115113	Crop Harvesting, Primarily by Machine
115114	Postharvest Crop Activities (except Cotton Ginning)
115116	Farm Management Services
1152	Support Activities for Animal Production
1153	Support Activities for Forestry
31111	Animal Food Manufacturing
31142	Fruit and Vegetable Canning, Pickling, and Drying*
3115	Dairy Product Manufacturing*
311611	Animal (except Poultry) Slaughtering*
311615	Poultry Processing
31213	Wineries*
49313	Farm Product Warehousing and Storage

IF ON FARM*

- (5) Applications for the GATE Certificate shall be made online at www.agr.georgia.gov. For application assistance, applicants may contact the GATE Service Center at 855-327-6829 or 855-Farm Tax.
- (6) The applicant must disclose the following information in order to be deemed eligible by the Department:
 - (a) The name and address of the farm, ranch, timber operation, or other business owned or operated by the applicant in relation to the production of agricultural products or the custom agricultural service; and
 - (b) An authentic and active e-mail address.
 - (c) Applicant must provide the name of the primary certificate holder and the names of no more than (2) authorized users. Commissioner has the authority to increase the number of authorized users, at his discretion.

- (7) Applicant must check boxes on the application which apply and attest that the information provided is true and accurate. The information provided by the applicant will be shared with the Georgia Department of Revenue.
- (8) The Commissioner shall not issue or renew an agricultural sales and use tax exemption until the agricultural producer requesting such certificate has provided the Commissioner with a valid state taxpayer identification number obtained through, or recognized by, the Department of Revenue's Georgia Tax Center (<https://gtc.dor.ga.gov>).
- (9) The Commissioner shall require applicants to acknowledge and produce, upon request, at least one of the following forms to determine eligibility:
 - (a) IRS schedule F (Profit or Loss from Farming)
 - (b) IRS form 4835 (Farm Rental Income and Expenses)
 - (c) IRS schedule E (Supplemental Income and Loss)
 - (d) IRS form 4797 (Sales of Business Property)
 - (e) IRS form 1065 (U.S. Return of Partnership Income)
 - (f) IRS form 1120 (U.S. Corporation Income Tax Return)
 - (g) IRS form 1120S (U.S. Income Tax Return for an S Corporation)
- (10) If an applicant does not file any of the forms provided for in paragraph (9) but claims eligibility for the exemption certificate pursuant to the criteria specified in paragraph (3) of this Rule, the applicant shall provide to the Commissioner any documentation, tax returns, forms, or sales receipts required by the Commissioner, and the Commissioner of Revenue, in his or her discretion, shall determine if the applicant has met such eligibility requirements in determining whether to issue or deny the issuance of the certificate.
- (11) Any agricultural sales and use tax exemption certificate issued or renewed on or after January 1, 2019, shall be valid for three years except as provided in the schedule set forth below. A certification fee of \$150 will be required to obtain a GATE certificate. All fees shall be paid online at www.agr.georgia.gov.
 - (a) In order to have staggered renewal dates for such three-year certificates, the Commissioner of Agriculture will establish a renewal schedule of existing certificates and prorate said renewals. The following schedule has been created for the 2019 Active GATE Certificate year.
 - (i) The first 1/3 of active GATE certificate holders, determined alphabetically according to the last name of the primary account holder, will renew for three years and will be assessed the full fee of \$150.

- (ii) The next 1/3 of active GATE certificate holders, determined alphabetically according to the last name of the primary account holder, will renew for two years and will be assessed the prorated fee of \$100.
 - (iii) The final 1/3 of active GATE certificate holders, determined alphabetically according to the last name of the primary account holder, will renew for one year and will be assessed a renewal fee of \$50.
- (12) Upon completion of the application and receipt of the certification fee online, a certificate, including a unique certification number and a wallet sized certification card, will be mailed to the mailing address provided by the applicant as confirmation of certification. The Department may also issue a key-chain sized certification card, which shall also be acceptable confirmation of certification. Replacement cards may be requested online. A fee of \$30 will be assessed for each replacement card. All certification information will be forwarded to the Department of Revenue.
- (13) Certificate holders shall maintain records of purchases of qualified agricultural products exempt from sales and use tax and shall, upon request, furnish such records the Commissioner and/or Commissioner of Revenue.
- (14) The GATE Certificate is non-transferable.
- (15) Certificate holders shall comply with all applicable laws and regulations and obtain all appropriate governmental approval pertaining to the selling, advertising, marketing, packaging, manufacturing, or other commercial handling of agriculture products.
- (16) Any unauthorized use of the GATE Certificate may result in criminal prosecution.

Authority: O.C.G.A. § 48-8-3.3.

Rule 40-29-.03. Renewal Process

- (1) The GATE Certificate must be renewed every three years, except as provided in the renewal schedule identified in Rule 40-29-.02(11)(a). The procedure for renewal by certificate holders previously authorized to use the GATE Certificate is as follows:
 - (a) Certificates expire December 31. The Department will begin accepting renewal applications on November 1, prior to the new calendar year.
 - (b) Renewals shall be made online at www.agr.georgia.gov. For renewal assistance, applicants may contact the GATE Service Center at 855-327-6829 or 855-FarmTax.

- (c) The renewal fee is \$150. The renewal fee shall be paid online at www.agr.georgia.gov.
- (d) Failure to remit the renewal fee and application by the expiration date shall result in the Certificate being designated as inactive and therefore ineligible for GATE benefits.
- (e) All information required in the application process will be reviewed, updated where needed, and attested to by applicant.

Authority: O.C.G.A. § 48-8-3.3.

Rule 40-29-.05. Revocation of Certification

- (1) Authorization to use the GATE Certificate may be suspended or revoked at any time if the certificate is misused or if the owner fails to operate as a Qualified Agriculture Producer.
- (2) Misuse of the GATE Certificate includes, but is not limited to, the following:
 - (a) The use of the Agriculture Tax Exemption Certificate for purchasing taxable items that will be used in a manner that does not qualify for the exemptions found in O.C.G.A. § 48-8-3.3 or the Rules and Regulations promulgated by the Georgia Department of Revenue.
 - (b) The use of the Agriculture Tax Exemption Certificate by individuals or entities that fail to meet the standards of a Qualified Agricultural Producer.
 - (c) Use of the Agriculture Tax Exemption Certificate by a person or entity other than the specified certificate holder.
- (3) Any evidence of misuse of the GATE Certificate or use of the Certificate by an ineligible person or entity may be referred to the Georgia Agriculture Tax Exemption Advisory Board or to the Department of Revenue for investigation and/or prosecution regarding misuse of the certificate.
- (4) The Department of Revenue shall be forwarded all information obtained by the Department of Agriculture for the purposes of review, audit, and possible prosecution of violations.
- (5) Authorization to use the GATE Certificate may be suspended or revoked pursuant to a finding of misuse and/or a recommendation of revocation from the Department of Revenue.

Revocation pursuant to a finding of misuse and/or recommendation from the Department of Revenue will be conducted through the Department of Agriculture.

- (a) If an agricultural producer knowingly uses a tax exemption certificate unlawfully, the Commissioner, after verifying the unlawful use of the tax exemption certificate, and subject to notice and a hearing in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act', shall suspend the certificate for up to one year.
- (b) If a subsequent unlawful use is knowingly made within five years following the end of the suspension, the Commissioner, after notice and hearing, shall determine if the certificate should be revoked. Any agricultural producer who has had his or her certificate revoked pursuant to this paragraph shall not be eligible for the issuance of a new tax exemption certificate until three years from the date of such revocation.

Authority: O.C.G.A. § 48-8-3.3.