

CERTIFICATE OF EXEMPTION
MACHINERY FOR NEW AND EXPANDED INDUSTRY



➤ **IMPORTANT: Certificate not valid unless completed in full.**

This certificate may be executed **only** for purchases, leases or rentals of tangible personal property, including related installation charges, which qualify for exemption under KRS 139.010(19), (20), and (28), KRS 139.480(10) and 103 KAR 30:120. The certificate may be executed by either: (1) a manufacturer or production processor; or (2) jointly by a contractor and the manufacturer or production processor in any case in which a contractor under contract with the manufacturer or production processor does, in fact, purchase, lease or rent such property.

THE UNDERSIGNED HEREBY CERTIFIES: That the machinery to be purchased, leased or rented from

Name of Vendor, Lessor or Renter

Address

constitutes "machinery for new and expanded industry," as defined in Sales and Use Tax Regulation 103 KAR 30:120, and

that this machinery is to be installed at _____

Name, if any, and Address of Plant Location

The undersigned agrees that in the event it is determined that any of the property described below is not tax-exempt, the undersigned will immediately report and pay the required tax measured by the purchase price or by the lease or rental payment of the property.

Cost of machinery to be purchased _____ Purchase order number _____

Description of machinery to be purchased _____

Describe manufacturing function of machinery _____

Name of Manufacturer or Production Processor

Name of Contractor Under Contract with the Manufacturer
or Production Processor

Manufacturer's Sales Tax Permit Account Number

Name of Subcontractor

Job Number/Contract Number

By _____
Signature Title

By _____
Signature Title

Date _____

Date _____

Address _____

Address _____

Contractor's Note: This certificate may not be used to purchase or rent/lease construction equipment or consumable supplies used in fulfilling a contract.

Caution: Sellers failing to obtain a completed certificate will be held liable for the sales and use tax pursuant to the provisions of KRS 139.270. A seller of tangible personal property shall be relieved from the sales and use tax only if he maintains a file of these certificates for a period of not less than four years as provided by KRS 139.720.

103 KAR 30:120. Machinery for new and expanded industry.

RELATES TO: KRS139.010, 139.480

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: To interpret the sales and use tax law as it applies to exemption qualification for "machinery for new and expanded industry."

Section 1. Requirements for Exemption. The machinery and the appurtenant equipment necessary to the completed installation of such machinery, together with the materials directly used in the installation of such machinery and appurtenant equipment, which are incorporated for the first time into new or existing plant facilities, or which are installed in the place of existing plant machinery having a lesser productive capacity, and which are directly used in a manufacturing or processing production operation shall be exempt from the sales and use tax. The term "processing production" shall include: the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone and natural gas. In summary, the following four (4) specific requirements must be met before machinery qualifies for exemption:

- (1) It must be machinery.
- (2) It must be used directly in the manufacturing process.
- (3) It must be incorporated for the first time into plant facilities established in this state.
- (4) It must not replace other machinery.

Section 2. Analysis of Requirements. (1) It must be machinery. The term "machinery" shall mean: machines, in general, or collectively; also, the working parts of a machine, engine, or instrument; as, the machinery of a watch. (Webster's New International Dictionary). This definition does not specify that machinery must have working parts and be able to perform a function in and of itself, as a "machine" would. The machinery of a manufacturing operation is composed of all the components making up the process, including the fixed and nonmoving parts as well as the moving parts. This is illustrated in the example of the machinery of a watch.

(2) It must be used directly in the manufacturing process. Machinery must be intimately involved in production in order to be considered used "directly" in the manufacturing process. The fact that machinery is necessary for a manufacturing process does not automatically qualify it for exemption. A single manufacturer may, within his primary manufacturing process, have more than one (1) production activity.

(a) Primary manufacturing process.

1. The primary manufacturing process is the production operation resulting in a finished product which will be transferred from the producing plant for distribution to customers or for further processing at another plant site. Production begins at a point where the raw material enters a process and is acted upon to change its size, shape, or composition or is transformed in some manner. Production ends when the finished goods are packaged or ready for sale. Packaging is considered complete when the product is in the container in which it is normally received by the purchaser.

2. All activities preceding the point of introduction of the raw material into the manufacturing process and following the point at which the finished product is packaged or ready for sale are not production activities and the machinery used therein is subject to tax.

3. Storage facilities, including those provided for the storage of in-process materials which have been removed from the production line to await further processing, are not used directly in the manufacturing process and are subject to tax. Proximity of storage facilities to the production line is immaterial.

(b) Contributory or secondary manufacturing process. This activity generally falls into one (1) of four (4) categories:

1. The manufacture of industrial tools to be used in the manufacturing process. Examples include the manufacture of dies, patterns, rolls, molds, cutters and cutter blades, and like property. The exemption for machinery used herein is determined by the same criteria used for determining the exemption provided in the primary manufacturing process.

2. The processing of materials which do not become an ingredient of the finished product but are consumed as industrial supplies directly in the primary manufacturing process. Examples include water cooling systems, bottle washing preparatory to filling, and chemical processes whereby the chemical is used as a catalyst directly on the product being manufactured. This machinery exemption begins at the point where the material is acted upon to condition it for use in the manufacturing process or at the point where it performs a function itself, if it is not acted upon prior to that point. The exemption ends when the material leaves the process.

3. Electrical machinery and similar equipment used directly in the operation of other machinery which is used directly in the manufacturing process.

4. Machinery used exclusively for quality control of in-process material or the efficient operation of machinery. Examples are air cooling or air conditioning systems, control panels, exhaust systems, and similar activities.

(3) It must be incorporated for the first time into plant facilities established in this state. To meet this requirement, the machinery must be installed in this state for the first time and it must be incorporated into plant facilities in this state. Machinery which has been once installed into manufacturing facilities in this state may be subject to tax as provided in 103 KAR 30:200 when subsequently sold by that manufacturer. Machinery purchased and delivered in Kentucky is subject to tax when the machinery is not acquired for installation in Kentucky.

(4) It must not replace other machinery. New machinery purchased to replace other machinery in the plant is subject to tax unless the new machinery performs a different function, manufactures a different product, or has a greater productive capacity, measured by units of production, than the machinery replaced. Modification of machinery to perform a different function or manufacture a different product qualifies for exemption.

Section 3. In all cases where a question arises concerning the exemption of machinery for new and expanded industry, the burden of proof that each qualification has been met is upon the one seeking the exemption. (SU-6-1; 1 Ky.R. 469; eff. 3-12-1975; TAm eff. 6-22-2016.)



ON-FARM FACILITIES
CERTIFICATE OF EXEMPTION
FOR
MATERIALS, MACHINERY AND EQUIPMENT

IMPORTANT
See Reverse Side for
Additional Information

This certificate may be executed only for those purchases of tangible personal property (materials, machinery and equipment) which will be incorporated into the construction, repair or renovation of on-farm facilities exempt under the provisions of KRS 139.480. This certificate may be executed (1) by the farmer who purchases the items directly from the retailer or (2) jointly by the farmer and a contractor who is under contract with the farmer and purchases the property to fulfill the terms of the construction contract.

THE UNDERSIGNED HEREBY CERTIFIES THAT THE PROPERTY TO BE PURCHASED FROM:

Name of Vendor and Address

will be incorporated into an: **(farmer must check the appropriate line)**

_____ On-farm grain/soybean facility	_____ On-farm ratite raising facility	_____ On-site cervid facility
_____ On-farm livestock or poultry raising facility	_____ On-farm aquaculture facility	
_____ On-farm buffalo raising facility	_____ On-farm llama or alpaca raising facility	

Project Category: ☐ New Construction ☐ Repair ☐ Renovation

Project Period (For Contractor's Use Only): Start Date _____ End Date _____

Description of Property to be Purchased _____

A jointly executed On-farm Facilities Certificate of Exemption for Materials, Machinery, and Equipment, Form 51A159, with a contractor shall be acceptable only for purchases made for periods within the effective dates indicated on the certificate at the time of purchase. A contractor shall jointly execute a new certificate with a farmer for additional purchases of materials, machinery, and equipment required for the same project after the initial expiration date or for additional projects.

I, the purchaser, understand that if the property described above is used in a nonexempt manner, I am liable for the payment of sales tax as provided in KRS 139.270, as if I were the retailer making a retail sale of the property at the time of such use and the cost to me shall be deemed the gross receipts from such retail sale. I will immediately remit to the Department of Revenue, Frankfort, Kentucky 40620, the required tax measured by the purchase price of the property. I also understand that the department shall hold the purchaser liable for the remittance of the tax and may apply any penalties as provided in KRS 139.990.

Under penalties of perjury, I swear or affirm that the information on this certificate is true and correct as to every material matter.

Farmer's Name (Print)

Contractor's Name (Print)

Signature

Sales/Use Tax Permit Number (if applicable)

Driver's License Number / State / KY Agriculture Exemption Number

By _____
Signature Title

Location of the Farm

Date _____

Date _____

Address _____

Mailing Address _____

Contractor's Note: The exclusive use of this certificate by the farmer purchaser constitutes the issuance of a blanket certificate and will remain valid for the project category designated until the purchaser notifies the seller in writing that it is no longer valid. The use of this certificate by the designated contractor is valid only for purchases made for periods within the effective dates indicated on the certificate at the time of purchase.

Caution: Sellers failing to obtain a completed certificate will be held liable for the sales and use tax pursuant to the provisions of KRS 139.270. A seller of tangible personal property shall be relieved from the sales and use tax only if he maintains a file of these certificates for a period of not less than four years as provided by KRS 139.720.

This certificate may only be used for the purchase of materials, machinery and equipment incorporated into the construction, repair or renovation of the following on-farm facilities. Revenue Form 51A158, Farm Exemption Certificate, must be used for the purchase of feed/feed additives, farm machinery, farm work stock, water, gasoline, special fuels, liquefied petroleum gas, farm chemicals, etc., for each of these facilities.

On-Farm Grain or Soybean Facilities—This certificate applies to the equipment, machinery, attachments, and any materials incorporated into the construction, repair or renovation of on-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. KRS 139.480(13)

On-Farm Facilities Used Exclusively for Raising Poultry or Livestock—This certificate shall apply to the equipment, machinery, attachments and any materials incorporated into the construction, repair or renovation of on-farm facilities used exclusively for raising chickens or livestock. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. KRS 139.480(14)

On-Farm Ratite Production Facilities—This certificate shall apply to equipment, machinery, attachments, and any materials incorporated into the construction, repair or renovation of on-farm facilities used in the breeding and producing of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. KRS 139.480(23)

On-Farm Llama and Alpaca Production Facilities—This certificate shall apply to equipment, machinery, attachments, and any materials incorporated into the construction, repair or renovation of on-farm facilities used for the production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. KRS 130.480(25)

On-Farm Buffalo Production Facilities—This certificate shall apply to equipment, machinery, attachments, and any materials incorporated into the construction, repair or renovation of on-farm facilities used for the production of hides, breeding stock, meat and buffalo by-products. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. KRS 139.480(28)

On-Farm Aquaculture Facilities—This certificate shall apply to equipment, machinery, attachments, and any materials incorporated into the construction, repair or renovation of on-farm facilities used in producing products of aquaculture. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. KRS 139.480(29)

“Aquaculture” means the science, art, and business of producing and raising aquatic organisms under controlled or semi-controlled conditions. KRS 260.960

On-Site Cervid Facilities—This certificate shall apply to equipment, machinery, attachments, and any materials incorporated into the construction, repair or renovation of on-site facilities used for the production of hides, breeding stock, meat and cervid by-products. KRS 139.480(30)

Questions concerning the use of this certificate should be directed to the Division of Sales and Use Tax, (502) 564–5170.

**Important—Certificate not
valid unless completed.**

RESALE CERTIFICATE

Check Applicable Block

Blanket ☐

Single Purchase ☐

I hereby certify that _____

Name of Business

Address

holds a valid Sales and Use Tax Permit, Account No. _____, issued pursuant to the sales and use tax law and is engaged in the business of selling, leasing or renting, industrial processing or manufacturing the following:

I further certify that the tangible personal property, digital property, or taxable services enumerated in KRS 139.200(2)(d)-(ay)* described herein which I shall purchase from:

Name of Seller

Address

will be resold in the regular course of business, or leased or rented, as provided by Regulation 103 KAR 28:051, or used, as provided in KRS 139.470(9), in the manufacture or industrial processing of tangible personal property or digital property which will be resold. In the event any property or service purchased under this certificate is used for any purpose other than retention, demonstration or display while holding it for sale, lease or rental in the regular course of business, it is understood that I am required by law to report and pay the tax measured by the purchase price of such product. Description of product to be purchased:

Under penalties of perjury, I swear or affirm that the information on this certificate is true and correct as to every material matter.

Authorized Signature (Owner, Partner or Corporate Officer)

Title

Date

CAUTION TO SELLER: *The Resale Certificate may not be issued for the purchase of accommodations, sewer services, or admissions as described in KRS 139.200(2)(a)-(c). Contractors or other persons registered under a consumer number in the 900,000 series may not issue a resale certificate for any purchase. Sellers accepting certificates from such persons will be held liable for the sales or use tax.

NOTE: Any person who makes improper use of this certificate is subject to such penalties as provided by law including the criminal provisions of KRS 139.990(1).



FARM EXEMPTION CERTIFICATE

IMPORTANT

See Reverse Side for
Additional Information

This certificate may not be issued for purchases of tangible personal property (materials, machinery and equipment) which will be incorporated into the construction, repair or renovation of on-farm facilities exempt under the provision of KRS 139.480. Revenue Form 51A159, On-Farm Facilities Certificate of Exemption for Materials, Machinery and Equipment, must be used for such purchases.

Name of Farmer (Print)

Farm Location

Driver's License Number / State / KY Agriculture Exemption Number

Name of Seller (Print)

Mailing Address

Seller's Address

I hereby certify that I am a farmer regularly engaged in the occupation of : **(farmer must check appropriate line(s))**

- ____ tilling and cultivating the soil for the production of crops;
____ raising and feeding livestock or poultry the products of which ordinarily constitute food for human consumption; or
____ raising and feeding llamas, alpacas, ratites, buffalo, aquatic organisms or cervids.

I also certify that I have read and understand the information contained on the reverse side of this certificate and that the tangible personal property that I shall purchase as indicated below will be used for the exempt purpose(s) provided for under KRS 139.480.

Farmer must CHECK appropriate line(s).

- ____ Baling twine and wire
____ Farm chemicals
____ Farm machinery, attachments and repair/replacement parts therefor
____ Farm work stock
____ Feed and feed additives
____ Gasoline, special fuels, natural gas or liquefied petroleum gas
____ Livestock or poultry the products of which ordinarily constitute food for human consumption
____ Ratites, llamas, alpacas, buffalo, aquatic organisms, or cervids
____ Seed or fertilizer
____ Embryos and semen used in the reproduction of livestock
____ Water used in the production of crops as a business or in the raising of livestock/poultry, ratites, llamas, alpacas, buffalo, aquatic organisms, dairy cattle and cervids.

Blanket Certificate: The use of this certificate by the purchaser constitutes the issuance of a blanket certificate and will remain valid until the purchaser notifies the seller in writing that it is no longer valid.

I, the purchaser, understand that if the property described above is used in a nonexempt manner, I am liable for the payment of sales tax as provided in KRS 139.270, as if I were the retailer making a retail sale of the property at the time of such use and the cost to me shall be deemed the gross receipts from such retail sale. I will immediately remit to the Department of Revenue, Frankfort, Kentucky 40620, the required tax measured by the purchase price of the property. I also understand that the department shall hold the purchaser liable for the remittance of the tax and may apply any penalties as provided in KRS 139.990.

Under penalties of perjury, I swear or affirm that the information on this certificate is true and correct as to every material matter.

Farmer's Signature

Date

Caution: Sellers failing to obtain a completed certificate will be held liable for the sales and use tax pursuant to the provisions of KRS 139.270. A seller of tangible personal property shall be relieved from the sales and use tax only if he maintains a file of these certificates for a period of not less than four years as provided by KRS 139.720.

Baling Twine and Baling Wire—Baling twine and baling wire for the baling of hay and straw. KRS 139.480(26)

Farm Chemicals—Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry the products of which ordinarily constitute food for human consumption, ratites, llamas and alpacas, buffalo, aquatic organisms, or cervids. KRS 139.480(8)

Farm Machinery, Attachments, and Repair and Replacement Parts—The term “farm machinery” means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term “farm machinery,” includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations. KRS 139.480(11)

Examples of items which qualify for exemption in addition to the more commonly known items of “farm machinery” are: irrigation systems, tobacco curing equipment, farm wagons, portable insecticide sprayers, chain saws, mechanical cleaning equipment, mechanical shop equipment, mechanical posthole diggers, silo unloaders (augers), grain and hay elevators, milking machines, automatic washers, mechanical bulk tanks, cooling units, brooders, incubators, automatic egg gathering systems, egg processing equipment, automatic feeding equipment, automatic waterers, tobacco transplant clipping system, tobacco transplant heating systems including fans, and tobacco transplant seeding systems.

Farm Work Stock—Farm work stock for use in farming operations. KRS 139.480(6)

Feed and Feed Additives—Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, ratites, llamas and alpacas, buffalo, aquatic organisms, or cervids. (KRS 139.480)(9) This exemption does not include feed or feed additives for farm work stock.

Gasoline, Special Fuels, Natural Gas and Liquefied Petroleum Gas—Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to operate farm machinery, on-farm grain/soybean facilities, on-farm poultry, livestock, ratite, llama, alpaca, dairy, or aquaculture facilities. KRS 139.480(15)

Livestock—Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming. KRS 139.480(4)

Poultry—For use in breeding and egg production. KRS 139.480(5)

Ratites, llamas, alpacas, buffalo, aquatic organisms, or cervids—Used in an agricultural pursuit. KRS 139.480(23), (25), (28), (29), (30)

Seed and Fertilizer—Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing. KRS 139.480(7)

Embryos and Semen—Used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is to a person engaged in the business of farming. KRS 139.480(24)

Water—Water used in the production of crops as a business or in the raising of livestock/poultry, ratites, llamas, alpacas, buffalo, aquatic organisms, cervids, and dairy cattle. KRS 139.480(27)

Questions should be directed to the Division of Sales and Use Tax, (502) 564-5170.