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An Act To Protect Maine's Natural Resources Jobs by Exempting from Sales Tax Petroleum Products Used in Commercial Farming, Fishing and Forestry

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §2013, as corrected by RR 2011, c. 2, §41 and amended by PL 2011, c. 657, Pt. N, §2 and affected by §3, is further amended to read:

§ 2013. Refund of sales tax on depreciable machinery and equipment purchases and petroleum products

1. Definitions. As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Commercial agricultural production" means commercial production of crops, plants, trees, compost and livestock.

A-1. "Commercial aquacultural production" means the commercial production of cultured fish, shellfish, seaweed or other marine plants for human and animal consumption, including:

(1) All cultivating activities occurring at hatcheries or nurseries, from the egg, larval or spore stages to the transfer of the product to a growing site; and

(2) All cultivating activities occurring on water, from the receipt of fish, shellfish, seaweed or other marine plants from onshore facilities to the delivery of harvested products to onshore facilities for processing.

B. "Commercial fishing" means attempting to catch fish or any other marine animals or organisms with the intent of disposing of them for profit or trade in commercial channels and does not include subsistence fishing for personal use, sport fishing or charter boat fishing where the vessel is used for carrying sport anglers to available fishing grounds.

B-1. "Commercial wood harvesting" means the commercial severance and yarding of trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass or fuel wood or other products commonly known as forest products.

C. "Depreciable machinery and equipment" means, except as otherwise provided by this paragraph, that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles; attachments and equipment for the production of field and orchard crops; new or used machinery and equipment for use directly and primarily in production of milk, animal husbandry and production of livestock, including poultry; new or used machinery and equipment used in the removal and storage of manure; and new or used machinery and equipment not used directly and primarily in commercial agricultural production, but used to transport potatoes from a truck into a storage location;

(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in commercial fishing;

(3) New or used watercraft, machinery or equipment used directly and primarily for commercial aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; and

(4) New or used machinery and equipment for use directly and primarily in commercial wood harvesting, including, but not limited to, chain saws, skidders, delimiters, forwarders, slashers, feller bunchers and wood chippers.

"Depreciable machinery and equipment" does not include a motor vehicle as defined in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

D. "Petroleum products" means any substance or combination of substances that is intended to be or is capable of being used for the purpose of propelling or running by combustion any internal combustion engine that is sold or used for that purpose and includes fuel and any lubricating oil or other lubricant that is classified for use in an internal combustion engine or the transmission, gear box, hydraulic system, compressor or differential for a motor vehicle or vessel, including but not limited to natural, synthetic and rerefined motor oils, whether or not in retail containers.

2. Refund authorized. Any person, association of persons, firm or corporation that purchases electricity, or that purchases or leases depreciable machinery or equipment, or that purchases petroleum products, for use in commercial agricultural production, commercial fishing, commercial aquacultural production or commercial wood harvesting ~~or that purchases fuel for use in a commercial fishing vessel~~ must be refunded the amount of sales tax paid upon presenting to the State Tax Assessor evidence that the purchase is eligible for refund under this section.

Evidence required by the assessor may include a copy or copies of that portion of the purchaser's or lessee's most recent filing under the United States Internal Revenue Code that indicates that the purchaser or lessee is engaged in commercial agricultural production, commercial fishing, commercial aquacultural production or commercial wood harvesting and that the purchased machinery or equipment is depreciable for those purposes or would be depreciable for those purposes if owned by the lessee.

In the event that any piece of machinery or equipment is only partially depreciable under the United States Internal Revenue Code, any reimbursement of the sales tax must be prorated accordingly. In the event that electricity or ~~fuel for a commercial fishing vessel~~petroleum products is used in qualifying and nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

Application for refunds must be filed with the assessor within 36 months of the date of purchase or execution of the lease.

3. Purchases made free of tax with certificate. Sales tax need not be paid on the purchase of electricity, ~~fuel for a commercial fishing vessel~~ or a single item of machinery or equipment or petroleum products if the purchaser has obtained a certificate from the assessor stating that the purchaser is engaged in commercial agricultural production, commercial fishing, commercial aquacultural production or commercial wood harvesting and authorizing the purchaser to purchase electricity, ~~fuel for a commercial fishing vessel~~petroleum products or depreciable machinery and equipment without paying Maine sales tax. The seller is required to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's records, attesting to the qualification of the purchase for exemption pursuant to this section. In order to qualify for this exemption, the electricity, ~~fuel for a commercial fishing vessel~~petroleum products or depreciable machinery or equipment must be used directly in commercial agricultural production, commercial fishing, commercial aquacultural production or commercial wood harvesting. In order to qualify for this exemption, the electricity or ~~fuel for a commercial fishing vessel~~petroleum products must be used in qualifying activities, including support operations.

4. Information on processes for refunds and appeals. The assessor shall post information describing the process for requesting a refund under this section on the bureau's publicly accessible website along with a description of the process to appeal a denial of refund request.

SUMMARY

Current law exempts from sales tax depreciable machinery or equipment used in commercial agricultural production, commercial fishing, commercial aquacultural production or commercial wood harvesting; fuel used in commercial fishing is also exempt from sales tax. A person seeking the exemption may apply for a refund of the sales tax paid or obtain an exemption at the point of sale.

This bill exempts from sales tax all petroleum products used in commercial agricultural production, commercial fishing, commercial aquacultural production or commercial wood harvesting. "Petroleum products" is defined as any substance or combination of substances that is intended to be or is capable of

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being used for the purpose of propelling or running by combustion any internal combustion engine that is sold or used for that purpose and includes fuel and any lubricating oil or other lubricant that is classified for use in an internal combustion engine or the transmission, gear box, hydraulic system, compressor or differential for a motor vehicle or vessel.