Chapter 40-29-1
GEORGIA AGRICULTURE TAX EXEMPTION (GATE)

40-29-1.01 DEFINITIONS

(1) "Agricultural product"- An agricultural, apicultural, aquacultural, horticultural, silvicultural, viticultural, or vegetable product that has been produced or processed.

(2) "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.

(3) "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.

(4) "Commissioner"- The Commissioner of the Georgia Department of Agriculture, or his designee.

(5) "Department"- The Georgia Department of Agriculture.

(6) "Equine species"- Any member of the Equidae species, including horses, mules, and asses.

(7) "On Farm"- Where an agricultural product is produced or harvested.

40-29-1-.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 $2,500.00 or more of agricultural products were produced and sold during the year, including payments from government sources;

(b) The person or entity is in the business of providing for hire custom agricultural services, including, but not limited to, plowing, planting, harvesting, growing, animal husbandry or the maintenance of livestock, raising or substantially modifying agricultural products, or the maintenance of agricultural land from which $2,500.00 or more of such services were provided during the year;

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(c) The person or entity is the owner of land that qualifies for taxation under the qualifications of bona fide conservation use property as defined in Code Section 48-5-7.4 or qualifies for taxation under the provisions of the Georgia Forest Land Protection Act as defined in Code Section 48-5-7.7;

(d) 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, 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 at least $2,500.00 in sales annually in the future, or;

(e) 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 at least $2,500.00 in sales annually.

(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:

2012 NAICS US Code	2012 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	Pumpkins, Onions, Carrots
1113	Fruit and Tree Nut Farming
111334	Blackberries, Blueberries
1114	Greenhouse, Nursery, and Floriculture Production
111421	Christmas Trees, Turfgrass (sod farming)
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

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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	Quail, Ostrich
1124	Sheep and Goat Farming
1125	Aquaculture
112519	Alligator
11291	Apiculture
11292	Horses and Other Equine Production
11293	Fur-Bearing Animal and Rabbit Production
11299	All Other Animal Production
112990	Alpaca/ Llama
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)
115115	Farm Labor Contractors and Crew Leaders
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 Certification shall be made in writing on a form prescribed by the Department or by applying online at www.agr.georgia.gov. Application forms may be obtained by contacting the Georgia Agriculture Tax Exemption Program, at 19 Martin Luther King Jr. Drive, Suite 324, Atlanta GA 30334, phone 855-327-6829 or 855-FarmTax.

(6) The applicant must disclose the following information in order to be deemed eligible by the Department:

(a) The types of crops, livestock, or other agricultural products that are produced for sale or the custom agricultural service performed by the applicant;

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(b) 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

(c) An authentic and active e-mail address, if applying online.

(d) 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 may require the applicant to provide proof of eligibility and attest the forms are on file from the previous year's tax records or schedules, including but not limited to:

(a) IRS schedule F
(b) IRS form 4835
(c) IRS schedule E
(d) IRS form 4797
(e) IRS form 1065
(f) IRS form 1120 0r 1120(s)

(9) Written applications shall be submitted to the Georgia Agriculture Tax Exemption Program, Georgia Department of Agriculture, Post Office Box 742304, Atlanta GA 30374-2304.

(10) An annual certification fee of $25 will be required with every written application, and a certification fee of $20 will be required for online applications. All fees can be paid by check or by credit card online at www.agr.georgia.gov.

(11) Upon completion of the application and receipt of the certification fee online, the department shall provide as confirmation of certification, a printable certificate which includes a unique certification number provided by the Department of Revenue, and a wallet-sized certification card. Certification cards for written applications will be mailed by the Department after processing. Replacement cards can be obtained online free of charge. Replacement cards obtained through the written process will be charged a $10 fee and sent via U.S.mail. All certification information will be forwarded to the Department of Revenue.

(12) The GATE Certificate is non-transferable.

(13) 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.

(14) No seller, retailer, vendor or dealer shall be authorized to forego collection of sales and use taxes unless proof of eligibility under GATE is provided.

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(15) Any unauthorized use of the GATE Certificate may result in criminal prosecution.

40-29-1-.03 RENEWAL PROCESS

(1) The GATE Certificate must be renewed annually. The procedure for annual renewal by certificate holders previously authorized to use the GATE Certificate is as follows:

(a) Certificates are only valid for the calendar year and expire December 31. Department will begin accepting renewal applications on October 1, prior to the new calendar year.
(b) Renewals must be made online at www.agr.georgia.gov or by written application to the Georgia Agriculture Tax Exemption Program, at 19 Martin Luther King Jr. Drive, S.W., Suite 324, Atlanta, GA 30334 by December 31 each year.
(c) The fee for renewal online is $20. The renewal fee for written applications is $25. The renewal fee may be paid by credit card online at www.agr.georgia.gov., or by check made out to the "Georgia Department of Agriculture."
(d) Failure to remit the annual renewal fee and application by the due date, shall result in the certificate being designated as inactive.

40-29-1-.04 DENIAL OF CERTIFICATION FOR THE GEORGIA AGRICULTURE TAX EXEMPTION (GATE) CERTIFICATE

(1) The Commissioner may make an initial determination of whether a person or entity is eligible for the GATE Certificate. If the applicant is denied certification, then the applicant shall be provided a reason for such denial and the licensing fee will be returned to the applicant.

(2) An application for the GATE Certificate may be denied if not made in compliance with O.C.G.A. § 48-8-3.3 or the Rules promulgated by the Georgia Department of Agriculture, including but not limited to the following:

(a) Submitted application has not been properly completed or is missing information;
(b) Annual application fee is not paid;
(c) Applicant falsified information on application or any previous application.

(3) Any denial may be appealed to the Georgia Agriculture Tax Exemption Advisory Board in writing within 30 days of denial. Appeals should be sent to the Georgia Agriculture Tax Exemption Program at 19 Martin Luther King Jr. Drive, Suite 324, Atlanta GA 30334.

40-29-1-.05 REVOCATION OF CERTIFICATION

(1) Authorization to use the GATE Certificate may be 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:

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(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 code section 48-8-3.3.
(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.

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