



## GEORGIA DEPARTMENT OF AGRICULTURE

Gary W. Black, Commissioner

[www.agr.georgia.gov](http://www.agr.georgia.gov)

**DATE:** August 1, 2018

**ACTION:** Notice of Intent to Consider the Adoption of Amendments to GATE Rules

### **TO ALL INTERESTED PERSONS AND PARTIES:**

Pursuant to the Official Code of Georgia Annotated, O.C.G.A. § 50-13-4 and O.C.G.A. § 48-8-3.3, notice is hereby given that the Georgia Department of Agriculture will be accepting written comments regarding the adoption of amendments to Rules 40-29-.02, 40-29-.03, and 40-29-.05 relating to the Georgia Agriculture Tax Exemption (GATE). The Department will be accepting written comments from August 1, 2018 to close of business (4:30 p.m. EST) on August 31, 2018.

### **SYNOPSIS, MAIN FEATURES AND DIFFERENCES:**

The Department is proposing to amend its Georgia Agriculture Tax Exemption (GATE) Rules by incorporating recent statutory changes. Specifically, the Department is proposing the following amendments:

#### *Proposed amendments to Rule 40-29-.02 entitled "Application for Authorization to Attain a Georgia Agriculture Tax Exemption (GATE) Certificate"*

The Department is proposing to amend this Rule by updating the criteria for being a 'qualified agriculture producer'. Specifically, the proposed amendment increases the threshold from \$2,500 to \$5,000 for services and aggregate production and adds livestock to the list of long-term agriculture products from which there might not be an annual income.

The proposed amendment also updates the NAICS codes from the 2012 version to the 2017 version.

The proposed amendment further removes paragraph (6)(a) and renumbers paragraph (6) accordingly.

The proposed amendment adds a new paragraph which states that 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>). The Rule would be renumbered accordingly.

The proposed amendment would clarify the forms required by the Commissioner to determine eligibility and add a new paragraph which states that if an applicant does not file any of the

specified forms but claims eligibility for the exemption certificate, then 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.

The proposed amendment would provide that exemption certificates are valid for three years and require a \$150 certification fee, which must be paid online. The Rules would also set a schedule for facilitating staggered renewal dates.

The proposed amendment also clarifies that a wallet sized, as well as a key-chain sized, certification card will be mailed to the mailing address provided by the applicant as confirmation of certification. Replacement cards may be requested online but will require a \$30 fee.

Finally, the proposed amendment would require certificate holders to maintain records of purchases of qualified agricultural products exempt from sales and use tax and, upon request, furnish such records the Commissioner and/or Commissioner of Revenue.

*Proposed amendments to Rule 40-29-.03 entitled "Renewal Process"*

The Department is proposing to amend this Rule by providing for certificate renewal every three years, except as provided in the renewal schedule identified in proposed Rule 40-29-.02(11)(a). The proposed Rule would also provide that the renewal fee is \$150, which must be paid online.

The proposed amendment would further provide that all information required in the application process will be reviewed, updated where needed, and attested to by applicant.

*Proposed amendments to Rule 40-29-.05 entitled "Revocation of Certification"*

The Department is proposing to amend this Rule by clarify that authorization to use a GATE certificate may be suspended or revoked. The proposed amendment would provide that 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. 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.

**COMMENT PERIOD AND ADDITIONAL INFORMATION:**

The Department will be accepting written comments from August 1, 2018, to close of business (4:30 p.m. EST) on August 31, 2018. Comments will be considered on September 3, 2018. Please submit written comments to:

Bo Warren  
Director of Policy  
Georgia Department of Agriculture  
19 Martin Luther King, Jr. Drive, S.W.  
Atlanta, Georgia 30334  
Telephone Number: (404) 656-3741

Interested persons may call or submit a written request to obtain a copy of the proposed Rules. A copy of the synopsis and the proposed Rules may be downloaded from the Georgia Department of Agriculture website at [www.agr.georgia.gov](http://www.agr.georgia.gov).

This notice is given in compliance with the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-4.