



# Certificate for Purchases of Non-Highway Diesel Motor Fuel or Residual Petroleum Product for Farmers and Commercial Horse Boarding Operations

**To purchasers and sellers:** Carefully read the information on page 2 of this form and the certifications below before giving or accepting this certificate.

**To sellers:** You must collect the applicable taxes on the sale of diesel motor fuel or residual petroleum product unless the purchaser gives you a properly completed exemption document no later than 90 days after the delivery of the product sold. Keep the certificate for at least three years from the last sale covered by this certificate.

**To purchasers:** Complete this certificate and give it to the seller.

Please type or print

Name of seller			Name of farmer or commercial horse boarding operator		
Street address			Street address		
City	State	ZIP code	City	State	ZIP code

**Single-purchase certificate** — enter invoice number \_\_\_\_\_ and number of gallons \_\_\_\_\_ .

**Blanket certificate** — will be considered part of any order given and will remain in effect until revoked by written notice from the purchaser or until the Tax Department notifies you that the purchaser may not make exempt purchases. It covers only the types of purchases marked below. If the conditions change for any of the boxes marked below (a, b, c, or d), complete a new Form FT-1004 to cover the new types of purchases.

**Part 1 — For non-highway diesel motor fuel purchases only** (mark an X in box a or b)

a  I certify that \_\_\_\_\_ % of the non-highway diesel motor fuel will be consumed **directly and exclusively** in the production of tangible personal property for sale by farming, and all of the non-highway diesel motor fuel covered by this certificate **will be delivered to my farm site**, and will not be consumed on the public highways of this state except to reach adjacent farmlands (exempt from diesel motor fuel tax, petroleum business tax, and sales tax).

b  I certify that \_\_\_\_\_ % of the non-highway diesel motor fuel will be used or consumed either in the production of tangible personal property for sale by farming or in a commercial horse boarding operation (see definition on back), or in both, and will not be consumed on the public highways of this state except to reach adjacent farmlands or adjacent lands used in a commercial horse boarding operation, or both (subject to petroleum business tax at the commercial gallonage rate, but exempt from diesel motor fuel tax and sales tax).

**Part 2 — For residual petroleum product purchases only** (mark an X in box c or d)

c  I certify that \_\_\_\_\_ % of the residual petroleum product will be used or consumed **directly and exclusively** in the production of tangible personal property for sale by farming, and all of the residual petroleum product covered by this certificate will be delivered to my farm site (exempt from petroleum business tax and sales tax).

d  I certify that \_\_\_\_\_ % of the residual petroleum product will be used or consumed in the production of tangible personal property for sale by farming or in a commercial horse boarding operation (see definition on back), or both (exempt from sales tax, but subject to petroleum business tax at the commercial gallonage rate).

**Certification:** I certify that the above statements are true and complete, and I make these statements with the knowledge that willfully issuing a false or fraudulent certificate with the intent to evade tax is a misdemeanor under New York State Tax Law sections 1812(c)(4), 1812-f(c)(4), and 1817(m) and Penal Law section 210.45, punishable by a fine up to \$10,000 for an individual or \$20,000 for a corporation. I also understand that the Tax Department is authorized to investigate the validity of exemptions claimed or the accuracy of any information entered on this form.

Type or print name of farmer, commercial horse boarding operator, or representative	
Signature of farmer, commercial horse boarding operator, or representative	Date

# Instructions

## General information

This form may be used by farmers and commercial horse boarding operators to purchase diesel motor fuel and residual petroleum product exempt from diesel motor fuel tax, petroleum business tax, and state and local sales taxes.

## Definitions

*Farming* includes agriculture, floriculture, horticulture, aquaculture, and silviculture; stock, dairy, poultry, fruit, fur bearing animal, truck, and tree farming; ranching; graping; operating nurseries, greenhouses, vineyard trellises, or other similar structures used primarily for the raising of agricultural, horticultural, vinicultural, viticultural, floricultural, or silvicultural commodities; operating orchards; raising, growing, and harvesting crops, livestock, and livestock products, as defined in subdivision 2 of section 301 of the Agriculture and Markets Law; and raising, growing, and harvesting woodland products, including, but not limited to, timber, logs, lumber, pulpwood, posts, and firewood.

*Commercial horse boarding operation* means an agricultural enterprise of at least seven acres and boarding at least 10 horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated either through:

- the boarding of horses; or
- the production for sale of crops, livestock, and livestock products; or
- both.

Under no circumstances shall this be construed to include operations whose primary on-site function is horse racing.

*Diesel motor fuel* means No. 1 diesel fuel, No. 2 diesel fuel, biodiesel, kerosene, fuel oil or other middle distillate and also motor fuel suitable for use in the operation of an engine of the diesel type. Diesel motor fuel does not include any product specifically designated No. 4 diesel fuel.

*Non-highway diesel motor fuel* means any diesel motor fuel that is designated for use other than on a public highway (except for the use of the public highway by farmers to reach adjacent lands), and is dyed diesel motor fuel.

*Highway diesel motor fuel* means any diesel motor fuel which is not non-highway diesel motor fuel.

*Dyed diesel motor fuel* means diesel motor fuel which has been dyed in accordance with and for the purpose of complying with 26 USC 4082(a).

## To the farmer or commercial horse boarding operator

This is the only certificate you may use to purchase, exempt from diesel motor fuel tax, petroleum business tax, or sales tax, non-highway diesel motor fuel or residual petroleum product for use in the production of tangible personal property for sale by farming or for use in a commercial horse boarding operation, or both.

**If you are a commercial fisherman, you may not use this form. You must pay the tax and apply for a refund** (see Form AU-631, *Claim for Refund/Reimbursement of Taxes Paid on Fuel Used in a Vessel Engaged in Commercial Fishing*).

**Boxes a and c** — The exemption for farmers from petroleum business tax imposed on purchases of non-highway diesel motor fuel, or from petroleum business tax imposed on purchases of residual petroleum product, is limited to fuel used or consumed directly and exclusively in the production phase of farming. Purchases for use in administration, storage, or marketing, or for use indirectly in farming, do not qualify.

**Boxes b and d** — The exemption for farmers and commercial horse boarding operators from sales tax does not require the fuel to be used directly and exclusively in farm production or commercial horse boarding operations. The fuel must be used or consumed in the production of tangible personal property for sale by farming or in a commercial horse boarding operation, or both.

For the exemption from diesel motor fuel tax, the non-highway diesel motor fuel must not be used on the public highways of New York except to reach adjacent farmlands.

**Note:** Kerosene is exempt from petroleum business tax if it is not blended or mixed with any other product constituting diesel motor fuel, motor fuel, or residual petroleum product, and is not sold or used in a motor vehicle.

## Seller

You must be registered as a distributor of diesel motor fuel or as a retailer of non-highway diesel motor fuel only to sell non-highway diesel motor fuel for use directly and exclusively in the production of tangible personal property by farming (boxes a and b).

To sell residual petroleum product, you must be registered as a residual petroleum product business (boxes c and d).

If all entries have been completed and the certificate has been signed by the purchaser (or representative), you may accept the certificate in lieu of collecting tax on your sale of the fuel type described in the boxes marked.

The farmer or commercial horse boarding operator must give you an exemption certificate with all entries completed no later than 90 days after the delivery of the non-highway diesel motor fuel or residual petroleum product. Otherwise, the sale will be considered to have been taxable at the time the transaction took place. If, within the 90 days, you are given an exemption certificate that is deficient (for example, some required entries are left blank), it will be considered satisfactory if the deficiency is corrected within a reasonable period of time. If you do not receive the certificate within the 90 days, you will share with the purchaser the burden of proving the sale was exempt.

You must keep this exemption certificate for at least three years after either the due date of the last return to which it relates or the date when the return was filed (whichever is later). You must also maintain a method of associating an exempt sale made to a particular customer with the exemption certificate you have on file for that customer.

## Need help?



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features



### Telephone assistance

**Miscellaneous Tax** Information Center: (518) 457-5735

To order forms and publications: (518) 457-5431

**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.