



Georgia Department of Agriculture

Capitol Square • Atlanta, Georgia 30334-4201

Gary W. Black
Commissioner

DATE: September 5, 2014

ACTION: Notice of Intent to Consider the Adoption of Amendments to Chapter 40-29

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 Chapter 40-29 relating to the Georgia Agriculture Tax Exemption (GATE) rules. The Department will be accepting written comments from September 5, 2014, to close of business (4:30 p.m. EST) on October 6, 2014.

SYNOPSIS, MAIN FEATURES AND DIFFERENCES:

Proposed Amendment to Rule 40-29-.01 “Definitions”

The Department is proposing to amend the definition of “Agricultural product” to mean “items produced by agricultural operations.”

The Department is also proposing to add a definition for “Agricultural operations” which shall be used synonymously with ‘agricultural purposes’ and mean the following activities: raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services; feeding, breeding, or managing livestock, equine, or poultry; producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys; producing plants, trees, fowl, equine, or other animals; producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products; processing poultry; post-harvest services on crops with the intent of preparing them for market or further processing, including but not limited to crop cleaning, drying, shelling, fumigating, curing, sorting, grading, packing, ginning, canning, pickling, and cooling; slaughtering poultry and other animals; and manufacturing dairy products. Agricultural operations does NOT include constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.

The proposed Rule will be renumbered to reflect the insertion of a definition for “Agricultural operations.”

Proposed Amendment to Rule 40-29-.02 “Application for Authorization to Attain a Georgia Agriculture Tax Exemption (GATE) Certificate”

The Department is proposing to amend the criteria for a “qualified agriculture producer” contained in Rule 40-29-.02(3) by changing subsection (b) to read “the person or entity is in the business of performing agricultural operations and has provided \$2,500.00 or more of such services during the year” and removing current subsection (c). The criteria portion of Rule 40-29-.02(3) will be renumbered to reflect the removal of current subsection (c).

The Department is further proposing to remove NAICS code 115115 relating to Farm Labor Contractors and Crew Leaders from eligibility for the GATE certificate.

The Department is also proposing to amend Rule 40-29-.02(5) by updating the mailing address of the Georgia Agriculture Tax Exemption Program to Post Office Box 742304, Atlanta, Georgia 30374-2304.

The proposed amendments would change Rule 40-29-.02(8) to mandate that the Commissioner require applicants to acknowledge and produce, upon request, at least one of the listed forms to determine eligibility for a GATE certificate.

The proposed rule would clarify that the annual certification fee of \$25 will apply to every written application or Department-assisted online application, and the certification fee of \$20 will apply to non-assisted online applications.

This Rule 40-29-.02(11) would be amended by removing the phrase “provided by the Department of Revenue” and clarifying that replacement cards obtained through the written process may be charged a \$10 fee rather than shall be charged said fee.

Proposed Amendment to Rule 40-29-.03 “Renewal Process”

The Department is proposing to amend Rule 40-29-.03(1)(a) by changing the first date the Department will begin accepting renewal applications from October 1 to November 1 prior to the new calendar year.

The Department is also proposing to amend Rule 40-29-.03(1)(b) by updating the mailing address of the Georgia Agriculture Tax Exemption Program to Post Office Box 742304, Atlanta, Georgia 30374-2304.

The proposed rule would clarify that the fee for renewal online, without Department assistance, is \$20 while the renewal fee for written applications and Department-assisted online applications is \$25.

Likewise, the proposed Rule would clarify that failure to remit the annual renewal fee and application by the due date shall result in the certificate being designated as inactive and therefore ineligible for GATE benefits.

Proposed Amendment to Rule 40-29-.04 “Denial of Certification for the Georgia Agriculture Tax Exemption (GATE) Certificate”

The Department is proposing to amend Rule 40-29-.04(2)(a) by clarifying that an application for the GATE certificate may be denied if a submitted application has not been properly completed or is missing required information.

The Department is also proposing to amend Rule 40-29-.04 by adding a new provision 40-29-.04(3) which would provide that an application for the GATE certificate may be denied if the applicant previously held a GATE certificate which was revoked pursuant to Department Rule 40-29-.05. The Rule would be renumbered to reflect the addition of this new provision.

Proposed Amendment to Rule 40-29-.05 “Revocation of Certification”

The Department is proposing to amend Rule 40-29-.05(2)(a) by replacing “the exemptions found in code section 48-8-3.3” with “the exemptions found in O.C.G.A. § 48-8-3.3 or the Rules and Regulations promulgated by the Georgia Department of Revenue.”

The Department is also proposing to amend Rule 40-29-.05 by adding a new provision 40-29-.05(5) which would provide that authorization to use the GATE Certificate may be revoked pursuant to a finding of misuse and/or a recommendation of revocation from the Department of Revenue, and that revocation pursuant to a finding of misuse and/or recommendation from the Department of Revenue will be conducted through the Department of Agriculture.

COMMENT PERIOD AND ADDITIONAL INFORMATION:

The Department will be accepting written comments from September 5, 2014, to close of business (4:30 p.m. EST) on October 6, 2014. Comments will be considered on October 7, 2014. Please submit written comments to:

Jack Spruill
Division Director
Marketing Division
Georgia Department of Agriculture
19 Martin Luther King, Jr. Drive
Atlanta, Georgia 30334
Telephone Number: 404-656-3368
FAX Number: 404-463-6428

Interested persons may call or submit a written request to obtain a copy of the proposed rule. A copy of the synopsis and the proposed rule may be downloaded from the Georgia Department of Agriculture website at www.agr.georgia.gov.

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

