

810-6-5-.02.01 State Sales and Use Tax Certificate of Exemption For Entities Having a Statutory Exemption from the Payment of Sales, Use, and Lodgings Taxes.

(1) The term "Department" as used in this rule shall mean the Department of Revenue of the State of Alabama.

(2) The term "Governmental Entity" as used in this rule shall mean the Federal Government, the State of Alabama, Alabama public schools, Alabama public universities, healthcare authorities, Alabama counties and municipalities, and public corporation incorporated under any of the provisions of Chapter 50 or 50A of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39.

(3) The terms "Person" or "Company" as used in this rule shall have the same meaning as prescribed in Section 40-23-1, Code of Alabama 1975.

(4) Persons or companies, including but not limited to those cited in Title 40, Chapter 9, other than governmental entities, which have a statutory exemption from the payment of Alabama sales, use, or lodgings taxes, shall be required to obtain a sales and use tax certificate of exemption to be renewed on an annual basis by applying for same on a form provided by the Department. Within thirty (30) days of receipt of a properly documented and completed application (Form ST: EX-A1-SE), the applicant will be issued a state sales and use tax certificate of exemption (Form STE-1) or a letter of denial of such application. The certificate of exemption (Form STE-1) can be copied, completed, and provided to vendors as documentation for tax exempt purchases. The denial of a properly documented and completed application for a certificate of exemption under the provisions of this rule shall be subject to the appeal rights provided for in Section 40-2A-8, Code of Alabama 1975.

(5) Certificates of exemption shall be valid for one year from the date of issuance and shall be renewed annually each subsequent year before the end of the month in which the certificate expires. Any person or company that fails to obtain or renew a certificate of exemption prior to its expiration, will no longer be allowed to make tax exempt purchases or rent tax exempt accommodations until such time as the application for renewal is made and the certificate is reinstated.

(6) All persons or companies required to obtain a certificate of exemption as described herein, are required to file an informational report with the Department in a manner prescribed in Departmental Rule 810-6-5-.02.02.

(a) Such required informational reports shall be a prerequisite for the renewal of certificates of exemption.

(b) Any person or company that does not comply with the reporting requirements may be barred from the use of any certificate of exemption until such time as the required informational report is filed with the Department, not to exceed six months for the first offense and one year for the second offense. On the third offense, such

person or company shall be barred from the use of any certificate of exemption until such time as the person or company is authorized to obtain a certificate of exemption pursuant to a joint resolution by the Alabama legislature.

(7) The Department may assess any person or company with state and local sales, use, and lodgings tax for any transaction conducted with a certificate of exemption not properly accounted for and reported in accordance with the provisions of this rule.

(8) Any person or company that intentionally uses a certificate of exemption in violation of its intended purpose shall, in addition to the actual sales, use and/or lodgings tax liability due, be subject to a civil penalty levied by the Department in an amount of not less than two-thousand dollars (\$2,000) or two times any state and local sales, use and/or lodgings tax due for the transactions, whichever is greater, and based on the person or company's willful misuse of the certificate of exemption, may be barred from the use of any certificate of exemption for up to two years.

(9) The Department, upon approving an application for a sales and use tax certificate of exemption, will provide the applicant with a Form STE-1 containing the following information:

(a) Certificate holder's exemption number,

(b) Restrictions, if any, to the scope of the certificate holder's exempt status,

(c) Nature of the certificate holder's business,

(d) Statement of the duties and responsibilities of the vendor to whom a certificate is provided by the holder,

(e) Statement, to be declared by the certificate holder under penalties of false swearing, as to the validity of the exemption claim,

(f) Certificate holder's name and address,

(g) Date of approval or issuance by the Department, and

(h) Signature of approval by the Department.

(10) At the time of providing a copy of a Form STE-1 to a vendor from whom a tax-exempt purchase is being made, the following information shall be provided by the certificate holder on the certificate copy which the holder gives to the vendor:

(a) Name and address of the vendor to whom the certificate copy is provided,

(b) Date the certificate is provided,

- (c) Basis for the certificate holder's exemption claim, and
- (d) Signature and title of the authorized representative for the certificate holder.

(11) Certificate holders regularly engaged in making tax exempt purchases of the kind and nature for which the Form STE-1 has been issued may furnish a properly executed certificate to the seller or lodgings provider specifying that all tangible personal property or lodgings subsequently purchased will be for the purpose shown on the certificate and thus be relieved of the burden of executing a separate certificate for each individual tax exempt purchase as long as there is no change in the character of their operations and the tangible personal property or lodgings purchased is of the kind usually purchased for the purpose indicated.

(12) Certificate holders must maintain a list of all vendors to whom they furnish a copy of their exemption certificate. This list should be retained in their records available for inspection by the Department during regular business hours and should provide the name, address, and type of business of each vendor to whom a copy of the certificate has been furnished.

(13) Certificate holders must return their certificate to the Department if the business for which the certificate was issued is closed.

(14) Certificate holders must notify the Department immediately in writing of any change in name or address.

(15) Sales of tangible personal property to any person, firm, or corporation not required to have a sales tax license are subject to sales or use tax until the contrary is established. The burden of proof that a sale is exempt is upon the person making the sale unless the seller takes from the purchaser a properly executed Form STE-1. Any such sale for which an exemption has been claimed but which is not supported by a Form STE-1 may be deemed a sale at retail by the Department and the seller held liable for the tax thereon.

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Authority: Sections 40-2A-7(a)(5), 40-23-31 and 40-23-120, Code of Alabama 1975.
History: New Rule: Filed January 6, 2016, effective February 10, 2016.
Amended: Filed June 27, 2016, effective August 11, 2016.