

# Sales and Use Tax Exemptions and Requirements

## Exemption Documentation Considerations

A purchaser shall claim a single purchase exemption by delivering to the seller a completed Certificate of Exemption. For a multiple purchase exemption, the purchaser shall deliver a completed blanket Certificate of Exemption. A blanket Certificate of Exemption remains in effect for the following four-year period unless the buyer and seller indicate on the certificate or otherwise in writing that a period of less than four years will apply.

The prescribed form for the Certificate of Exemption is included in this chapter. The purchaser shall complete all four sections of the exemption certificate to establish a valid exemption claim. In lieu of the Certificate of Exemption, the purchaser shall use: 1) any exemption certificate format contained in a current Sales and Use Tax Administrative rule; 2) the Uniform Sales and Use Tax Certificate approved by the Multistate Tax Commission; or, 3) a purchase order issued by the purchaser meeting all of the requirements set forth below; 4) an exemption form approved by the Department that contains the same information found in all sections of the Department's Certificate of Exemption. Only these items constitute a valid "Certificate of Exemption."

The Department issues sales tax license numbers to retail sellers that document a purchaser's ability to purchase items exempt under a claim of "for resale at retail." The Department also issues use tax registration numbers to lessors who elect to pay use tax on rental receipts rather than sales tax on the price of the property acquired for rental. When a purchaser claims an exemption based on an election to pay use tax on rental receipts or claims that the purchase is for "resale at retail," the seller is required to obtain the purchaser's sales or use tax number. In all other instances, sellers need not require a number as evidence of a purchaser's ability to claim exemption from sales and use taxes.

Some entitlements for statutory sales and use tax exemptions are evidenced by specified documents such as an Internal Revenue Service letter in the case of a nonprofit tax-exempt entity. In these cases, the seller shall obtain the specified document and retain it to substantiate the claim of exemption.

A purchase order that contains all of the information and attachments described in the Sales Tax Act is a valid exemption certificate for single purchases. Purchase orders intended to serve as a blanket Certificate of Exemption for multiple purchases, must expressly state that intention on the purchase order. Purchase orders do not terminate a previously issued blanket Certificate of Exemption unless the purchase order makes

specific reference to the date of the blanket Certificate of Exemption and states what was covered in the certificate it intends to terminate.

A seller must meet a "good faith" standard required by law. "Good faith" means that the seller received a completed and signed Certificate of Exemption from the purchaser. Exemptions will not be recognized without a properly completed Certificate of Exemption.

Sellers shall retain exemption certificates for a period of not less than four years from the date of the last sale the exemption certificate applies to. Exemption certificates are not to be sent to the Department of Treasury unless requested in writing.

Exemptions are strictly construed in favor of the taxing authority and the burden of proving entitlement to an exemption rests on the party asserting it. *Elias Bros Restaurants Inc v Dep't of Treasury, 452 Mich 144, 150 (1996)*.

Section 18 of the General Sales Tax Act [MCL 205.68] and Section 14a of the Use Tax Act [MCL 205.104a] require that taxpayers maintain accurate and complete inventory records as well as all pertinent documents. These sections also provide that if an exemption from tax is claimed a record shall be kept of the name and address of the person to whom the sale is made, the date of the sale, the article purchased, the type of exemption claimed, the amount of the sale, and, if that person has a sales tax license, the sales tax license number. If a taxpayer fails to maintain or preserve the records as required, the statute authorizes the Department to assess the tax due based on the best information available. Such an assessment shall be deemed correct and the burden to demonstrate that a lesser amount of tax is properly due is on the taxpayer.

Section 18 of the General Sales Tax Act expressly provides for the use of exemption certificates to establish claims for exempt sales.

If a taxpayer maintains the records required under this section, and accepts an exemption certificate from the buyer in good faith on a form prescribed by the Department, the taxpayer is not liable for collection of the unpaid tax after a finding that the sale did not qualify for exemption under this act. Effective June 29, 2000, "good faith" means that the taxpayer received a completed and signed exemption certificate from the buyer. MCL 205.67. Under prior law, good faith required that the taxpayer "exercised reasonable care and effort to determine that the purchaser was entitled to the exemption being claimed."

Generally accurate exemption records shall be generated or on file with the vendor at the time of sale. The Department of Treasury administratively allows sellers a reasonable opportunity to supply missing or misplaced exemption certificates.

Some exemption statutes require the purchaser to receive a specific exemption certificate prior to purchase. For example,

1. Sales to Water or Air Pollution Control Facilities. "Installed as a component part of a water [air] pollution control facility for which a tax exemption certificate is issued pursuant to part 37 [59] of the natural resources and environmental protection act..." [MCL 205.54a(1)(l)].
2. Sales to High Technology Business. "The department has issued a certificate to the business certifying that the eligible property is used for a high technology activity and the other requirements of this section are met." [MCL 205.54(l)].

Unlike Section 18 of the General Sales Tax Act, Section 14 of the Use Tax Act does not expressly provide for the use of an exemption certificate. Section 14 does, however, provide for retention of "all pertinent documents in a form the department may require." This statutory language supports the use of exemption certificates, and where a taxpayer meets the "good faith" requirement by receiving a completed and signed exemption certificate, the taxpayer is not liable if the transaction is subsequently determined to be taxable.

### **Exemption Certificate**

The exemption claim must contain the signature of an authorized purchaser. Exemption claims are to be maintained in the seller's records to be available if the seller is called upon to produce proof of the exemption. The taxability of a purchased item depends upon its use. Characterization as an exempt sale is not, in itself, proof of exemption. A claim for exemption merely documents an exempt sale. Claim documentation can be disallowed as proof of exemption if it is determined that taxable usage occurred. A seller should exercise reasonable care that the purchaser is entitled to the exemption being claimed

### **Tax Exemption Numbers**

The Michigan Department of Treasury does not issue "tax exemption numbers" for any type of organization. Sellers should not accept a number as evidence of exemption.

## Michigan Sales and Use Tax Certificate of Exemption

TO BE RETAINED IN THE SELLER'S RECORDS – DO NOT SEND TO TREASURY.

This certificate is invalid unless all four sections are completed by the purchaser.

### Section 1: Check one of the following:

One time purchase       Blanket certificate (Note: A blanket certificate is valid for four years from the date of signature unless an earlier expiration date is listed below)

Expiration date, if less than four years: \_\_\_\_\_

The purchaser hereby claims exemption on the purchase of tangible personal property and selected services made under this certificate from \_\_\_\_\_ (Vendors Name) and certifies that this claim is based upon the purchaser's proposed use of the items or services, or the status of the purchaser:

### Section 2: Items covered by this certificate:

All items purchased  
 Limited to the following items: \_\_\_\_\_

### Section 3: Basis for exemption claim:

For Resale at Retail – Sale Tax Registration  
Number: \_\_\_\_\_

For Resale at Wholesale – No Number Required

For Lease – Use Tax Registration Number:  
\_\_\_\_\_

Agricultural production – No Number Required  
(describe) \_\_\_\_\_

Industrial Processing – No Number Required

Government Entity, Nonprofit School, Nonprofit Hospital, and Church (circle type of organization)

Nonprofit Internal revenue Code 501(c)(3) and 501(c)(4) Exempt Organizations  
(Attach copy of IRS letter ruling)

Nonprofit Organizations with an Exempt letter from the State of Michigan (Attach a copy of State's letter)

Other (explain): \_\_\_\_\_

### Section 4: Certification:

I declare, under penalty of perjury, that the information on this certificate is true, that I have consulted the statutes, administrative rules and other sources of law applicable to my exemption, and that I have exercised reasonable care in assuring that my claim for exemption is valid under Michigan law. In the event this claim is disallowed, I accept full

responsibility for the payment of tax, penalty and any accrued interest, including, if necessary, reimbursement to the vendor for tax and accrued interest.

Purchaser \_\_\_\_\_

Street Address \_\_\_\_\_

Area Code/Telephone Number \_\_\_\_\_

City State Zip Code \_\_\_\_\_

Signature and Title \_\_\_\_\_

Date Signed \_\_\_\_\_

Name (Print or Type) \_\_\_\_\_

Social Security No. or FEIN \_\_\_\_\_

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