

ALABAMA DEPARTMENT OF REVENUE

SALES, USE & BUSINESS TAX DIVISION

SALES & USE TAX RULE

810-6-5-.02. State Sales and Use Tax Certificate of Exemption (Form STE-1) - Responsibilities of the Certificate Holder - Burden of Proof - Liability for Taxes Later Determined to be Due.

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

(2) Persons, firms, and corporations who are not required to have a sales tax license pursuant to Section 40-23-6, Code of Alabama 1975, and who are entitled to make certain purchases at wholesale, tax free, may obtain a sales and use tax certificate of exemption by applying for same on a form provided by the Department. Upon receipt of a properly completed application and approval of same by the Department, the applicant will be issued a state sales and use tax certificate of exemption (Form STE-1) which can be copied, completed, and provided to vendors as documentation for tax exempt purchases. A form STE-1 will not be issued to persons, firms, or corporations who have a sales tax license issued pursuant to Section 40-23-6, Code of Alabama 1975, or who do not have a place of business within the State of Alabama.

(3) An application for a sales and use tax certificate of exemption shall require the following information:

(a) Applicant's Federal Employer Identification Number,

(b) Applicant's business telephone number,

(c) Applicant's legal name, trade name, and complete mailing address,

(d) Number of businesses in Alabama and exact location of each (exact location shall include city, county, and street address; if location is on highway or rural route, exact location shall include details sufficient to allow Department personnel to find the place of business),

(e) Indication of the kind and class of business (i.e. wholesaler, manufacturer, etc.),

(f) Type of products manufactured or sold,

(g) Reason the exemption is claimed,

(h) Indication of the legal form of ownership (sole proprietorship, partnership, corporation, LLC, etc.),

(i) Copy of certificate of incorporation or articles of incorporation, if applicable,

(j) Name, title, home address, and social security number of sole proprietor, each partner, or each corporate officer, and

(k) Signature of sole proprietor, each partner, or an elected corporate officer.

(4) 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.

(5) 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) Certificate holder's signature and title.

(6) 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 specifying that all tangible personal property 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 purchased is of the kind usually purchased for the purpose indicated.

(7) 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.

(8) Certificate holders must return their certificate to the Department if the business for which the certificate was issued is closed or if they engage in retail sales for which a sales tax license is required.

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

(10) 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.

(11) Any person, firm, or corporation selling tangible personal property tax free who relies on a Form STE-1 and reasonably believes the tax exemption claim is legal shall not be held liable for sales or use tax subsequently determined by the Department to be due on the sale for which the certificate was received. Instead, the Department will collect or recover the tax due from the party or parties who made the illegal tax-free purchase with the Form STE-1 and the person or persons who benefited from the illegal use of the Form STE-1. (Sections 40-23-120 and 40-23-121)

(12) With the exception of the certificates which are provided for in Sections 40-23-4(a)(10), 40-23-62(12), and 40-23-4.3, Code of Alabama 1975, and Form STE-2 provided for in Sales and Use Tax Rule 810-6-4-.24.01 pursuant to Section 40-23-120, the state sales and use tax certificate of exemption (Form STE-1) is the only exemption certificate or exemption number which relieves the seller, when acting in good faith and exercising

reasonable care, of liability for any sales or use tax later determined by the Department to be due on a sale for which an exemption was originally claimed.

(13) The provisions outlined in paragraphs (10), (11), and (12) pertaining to the collection or recovery of taxes due from persons or parties making illegal tax-free purchases using Form STE-1 or benefiting from the illegal use of said Form STE-1 are effective May 11, 1989, and apply to Forms STE-1 issued prior to May 11, 1989, as well as those issued on or after that date.

(14) Section 40-23-121 authorizes the Department to use its powers and responsibilities in accord with the general laws of this state to effect collection of any tax due from a purchaser resulting from the purchaser's unauthorized use of a state sales and use tax certificate of exemption (Form STE-1). This act will be enforced by the Department in the same manner as the state Sales or Use Tax Law, as the case may be, is enforced, including but not limited to the power to examine purchasers' records; assess tax, penalty, and interest; and file tax liens. (Adopted July 6, 1977, amended November 3, 1980, readopted through APA effective October 1, 1982, amended January 29, 1990, amended June 6, 1996, amended December 10, 1996)

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