

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-6-5-.02.01

Rule Title: State Sales and Use Tax Certificate of Exemption For Entities Having a Statutory Exemption from the Payment of Sales, Use, and Lodgings Taxes.

New; Amended; Repealed; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that result from the absence of the proposed rule? N/A

Are all the facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule relate to or effect any matter of litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency .

Signature of certifying officer

Date 03/18/2022

REC'D & FILED

MAR 18 2022



LEGISLATIVE SVC AGENCY

**ALABAMA DEPARTMENT OF REVENUE
Sales and Use Tax**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

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.

INTENDED ACTION

Amended

SUBSTANCE OF

PROPOSED ACTION:

Pursuant to the passing of Act 2021-298, this rule is being amended to include airport authorities to the definition of governmental entities.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be conducted at **01:30 PM on Tuesday, May 10, 2022** via web-conference. To participate in the upcoming web-conference public hearing please contact the Tax Policy and Governmental Affairs Division at Taxpolicy@revenue.alabama.gov or 334-242-1380 to obtain the appropriate sign-in information for a specific public hearing date. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also may present their views during the web-conference.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, May 10, 2022

CONTACT PERSON AT AGENCY:

Meagan Barrett

Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Mary Martin Mitchell, Secretary
Alabama Department of Revenue

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

~~(2) The term "(a) Governmental Entity" as used in this rule shall mean the The Federal Government, the State of Alabama, Alabama public schools, Alabama public universities, healthcare authorities, airport authorities, Alabama counties and municipalities, and public corporations 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 "(b) Person" or "Company" as used in this rule shall have the same meaning as prescribed in Section §40-23-1, Code of Ala. 1975.~~

(2) Certificate of Exemption Requirements.

~~(4)(a) 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 are required to obtain a sales and use tax certificate of exemption. The certificate of exemption must to be renewed on an annual basis, by applying for same on a form provided by the Department.~~

~~(b) 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 denial of a properly documented and completed certificate of exemption application under the provisions of this rule are subject to the appeal rights provided for in §40-2A-8, Code of Ala. 1975.~~

~~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)(3) Annual Renewal Required. Certificates of exemption shall be are valid for one year from the date of issuance and shall must 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)(4) Informational Reports Required. All persons or companies required to~~

obtain a certificate of exemption as described herein, are required to file an informational report with the Ddepartment in a manner prescribed in ~~Departmental~~ Rule 810-6-5-.02.02.

(a) Such required informational reports ~~shall be~~ are 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 Ddepartment, 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)~~**(5) Consequences of Improper Use.**

(a) The Ddepartment 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)~~ **(b)** 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)~~ **(6) Certificate of Exemption Information. Upon approval of an application for a sales and use tax certificate of exemption, Tthe Ddepartment, 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 number₇₂.
- (b) Restrictions, if any, to the scope of the certificate holder's exempt status₇₂.
- (c) Nature of the certificate holder's business₇₂.
- (d) Statement of the duties and responsibilities of the vendor to whom a certificate is provided by the holder₇₂.
- (e) Statement, to be declared by the certificate holder under penalties of perjury false swearing, as to the validity of the exemption claim₇₂.

- (f) Certificate holder's name and address₇.
- (g) Date of approval or issuance by the ~~D~~department₇ and
- (h) Signature of approval by the ~~D~~department.

~~(40)~~ **(7) Certificates Provided to Vendors. The certificate of exemption (Form STE-1) can be copied, completed, and provided to vendors as documentation for tax exempt purchases.** 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 that** the holder **gives provides** 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.

~~(42)~~ **(8) Additional Information.**

(a) 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.

~~(42)~~ **(b)** 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 ~~D~~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.

~~(43)~~ **(c)** Certificate holders must return their certificate to the ~~D~~department if the business for which the certificate was issued is closed.

~~(44)~~ **(d)** Certificate holders must notify the ~~D~~department immediately in writing of any change in name or address.

(15) (e) 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 ~~D~~department and the seller held liable for the tax thereon.

Author: Ginger Buchanan **and Christy Vandevender**
Authority: **Sections §§ 40-2A-7(a)(5), 40-9-60, 40-23-1, 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.
Amended: Filed March 18, 2022;