

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;  Amend;  Repeal;  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 might result from the absence of the proposed rule?

N/A

Are all 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 have any economic impact?

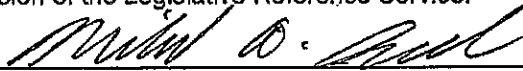
Yes

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.

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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 Reference Service.

Signature of certifying officer 

Date 9/16/15

APA-6  
10/96

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 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  Amend  Repeal  Adopt by Reference

NO  
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:**  
This rule is needed to explain the effects of Act 2015-534 on entities that are statutorily exempt from the payment of sales, use and lodgings taxes.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**
3. **EFFECT OF THIS RULE ON COMPETITION:**
4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:**
6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**  
The taxes for which the exemption is enjoyed
7. **THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:

10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

11. OTHER COMMENTS:

This rule will benefit both exempt entities and sellers in that exempt entities will have an annual certificate to present to sellers to prove that they are in fact exempt from the taxes for which they are claiming an exemption. The benefit to sellers will be that all exempt entities are required to obtain a certificate so there will be no guess-work as to whether the entity making purchases is actually exempt. The exception will be governmental entities as defined by the law. Those entities will not be required to obtain a certificate.

ALABAMA DEPARTMENT OF REVENUE  
Sales & Use Tax Division

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-6-1-.46 Contractor's Liability

**INTENDED ACTION:** Amend rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to include information from various court cases related to contractors and to clarify when the contractor's provision applies to additions to realty.

**RULE NO. & TITLE**

810-6-3-.42.02 Nonresidents, Sales to  
810-6-3-.42.03 Sales of Certain Automotive Vehicles to Nonresidents for First  
Use and Registration or Titling Outside Alabama

**INTENDED ACTION:** Amend rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rules to incorporate the changes in the drive out provision in Section 40-23-2(4) as amended by Act 2015-503, and provide an effective date for the change.

**RULE NO. & TITLE**

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

**INTENDED ACTION:** Amend rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to reflect changes created by Act 2015-534 that require entities having a statutory exemption from the payment of sales, use and lodgings tax to obtain an annual certificate of exemption, reference the new rule relating to those changes, and to change the title of this rule.

**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:** Adopt rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to adopt the above new rule to comply with the provisions of Act 2015-534.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at **10:30 a.m. on Thursday, November 12, 2015, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://revenue.alabama.gov/analysis/upcoming-rule-hearings.cfm>

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 during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Thursday, November 12, 2015

**CONTACT PERSON AT AGENCY:**

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



Michael D. Gamble, Secretary  
Alabama Department of Revenue

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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. (NEW RULE)

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

(2) The term "Governmental Entity" as used in this rule regulation 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 regulation 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. 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.

(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, may be required to file an annual informational report with the Department.

(a) Such information reports, if required by the Department, 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 for up to six months for the first offence 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) An application for a sales and use tax certificate of exemption shall require the same information as enumerated in Departmental Rule 810-6-5-.02, entitled State Sales and Use Tax Certificate of Exemption (Form STE-1) Issued for Wholesalers, Manufacturers and other Product Based Exemptions.

(10) 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.

(11) 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.

(12) 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.

(13) 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.

(14) 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.

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

(16) 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.

Author: Ginger Buchanan  
Authority: Sections 40-2A-7(a)(5), 40-23-31 and 40-23-120, Code of Alabama 1975  
History: