

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 x 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:

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:

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:

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

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: Amend rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to further explain and clarify the requirements for and process of obtaining a certificate of exemption for statutorily exempt entities, to add form numbers, and clarify appeal rights.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Thursday, May 19, 2016, 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 following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Thursday, May 19, 2016

CONTACT PERSON AT AGENCY:
Timothy Sanders
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.

(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. **Upon Within thirty (30) days of receipt of a properly documented and completed application (Form ST: EX-A1-SE) and approval of same by the Department, 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) which 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. 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 **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 for up to** six months for the first ~~offence~~ **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) 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.~~

(109) 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.

(4110) 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.

(4211) 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.

(4312) 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.

(4413) 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.

(4514) Certificate holders must notify the Department immediately in writing of any change in name or address.

(4615) 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: New Rule: Filed January 6, 2016, effective February 10, 2016.