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DEPARTMENT OF TREASURY  
LANSING

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**REVENUE ADMINISTRATIVE BULLETIN 2016-14**

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**SALES AND USE TAX EXEMPTION CLAIM PROCEDURES AND FORMATS**

(Replaces Revenue Administrative Bulletin 2002-15 for periods on or after January 9, 2009)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

**RAB 2016-14.** This Revenue Administrative Bulletin (RAB) describes the general procedures sellers and purchasers should follow when exemptions are claimed under the General Sales Tax Act and the Use Tax Act.<sup>1</sup> This RAB is not intended to address specific exemptions or the additional requirements that may be applicable under those specific exemptions.<sup>2</sup>

This RAB replaces RAB 2002-15 in its entirety for periods on or after January 9, 2009. This RAB reflects the elimination of the “good faith” requirement for transactions occurring on or after January 9, 2009.<sup>3</sup>

**ISSUES**

- I. How do purchasers claim an exemption?
- II. What formats can a purchaser use to make an exemption claim?
- III. Can a purchaser deliver a blanket exemption form?
- IV. Is a seller required to obtain a state-issued tax exemption number from a purchaser?

<sup>1</sup> Section 12 of the General Sales Tax Act [MCL 205.62] and Section 14b of the Use Tax Act [MCL 205.104b].

<sup>2</sup> Information relating to common sales and use tax exemptions and requirements may be found on the Michigan Department of Treasury’s website at [www.michigan.gov/taxes](http://www.michigan.gov/taxes).

<sup>3</sup> 2008 PA 438. For transactions occurring before January 9, 2009, the good faith standard applies. See RAB 2002-15 for a further discussion of the standard.

- V. Under what conditions may a purchaser and seller use a purchase order to document an exemption?
- VI. When can a seller be liable for the sales or use tax on an “exempt” transaction?
- VII. How long must a seller retain a Certificate of Exemption or other supporting information?

## CONCLUSIONS

**I. Claiming an Exemption.** Exemptions are strictly construed in favor of the taxing authority and the burden of proving entitlement to an exemption rests on the taxpayer asserting it.<sup>4</sup> When making a claim for an exemption, a purchaser must comply with all statutory requirements. The general statutory provisions applicable to exemption claims require the purchaser to provide a seller with the following information:<sup>5</sup>

- A. The identifying information of the purchaser, including the purchaser’s name and address.
- B. The exemption type (or reason for the exemption) claimed by the purchaser.
- C. Any other information required for the specific exemption being claimed, such as the purchaser’s sales tax license number if the claim is for resale.

When making an exempt sale/purchase, sellers and purchasers should always check the applicable exemption statute to determine whether there are any additional requirements they must comply with.<sup>6</sup> For example:

- In the case of a claim of “for resale at retail” the seller must obtain the sales tax license number of the purchaser.<sup>7</sup>
- A lessor who elects to pay use tax on rental receipts rather than sales tax on the price of the property acquired for rental must provide the lessor’s sales tax license number or use tax registration number.

**II. Acceptable Formats.** The Department of Treasury (Department) will accept a variety of exemption formats. Any one of the following formats, if properly completed, will constitute a valid “Certificate of Exemption” as that term is used in this RAB:

- A. Form 3372, Michigan Sales and Use Tax Certificate of Exemption.<sup>8</sup>
- B. Any exemption certificate format contained in a current Sales and Use Tax Administrative rule.
- C. The Uniform Sales and Use Tax Certificate approved by the Multistate Tax Commission.

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<sup>4</sup> *Andrie Inc v Dep’t of Treasury*, 496 Mich 161 (2014).

<sup>5</sup> MCL 205.62; MCL 205.104b.

<sup>6</sup> See Footnote 2.

<sup>7</sup> MCL 205.68(1); MCL 205.104a(1).

<sup>8</sup> [www.michigan.gov/treasuryforms](http://www.michigan.gov/treasuryforms).

- D. A purchase order issued by the purchaser meeting the requirements set forth in this RAB.
- E. The Streamlined Sales and Use Tax Agreement Certificate of Exemption.
- F. The required statutory information in another format, such as in a signed letter on the purchaser's letterhead.

A purchaser is not required to provide a signature to claim an exemption, unless the purchaser uses a paper Certificate of Exemption.<sup>9</sup>

**III. Blanket Certificates of Exemption.** A purchaser may deliver a Blanket Certificate of Exemption to a seller. A Blanket Certificate of Exemption remains in effect for a four-year period, unless the seller and the purchaser indicate on the Blanket Certificate of Exemption or otherwise in writing that a period of less than four years will apply. If the seller and the purchaser have a recurring business relationship, there is no requirement that the Blanket Certificate of Exemption be renewed or that the data elements be updated. A recurring business relationship exists when a period of not more than 12 months elapses between sales transactions.<sup>10</sup>

**IV. Exemption Numbers.** The Department does not issue tax exemption numbers. Consequently, sellers do not need to obtain a state-issued tax exemption number as evidence of a purchaser's ability to claim an exemption from sales and use taxes.

**V. Use of Purchase Orders.** A purchaser may use, and a seller may accept, a purchase order as a Certificate of Exemption, provided it contains all of the information and attachments required for a valid Certificate of Exemption for single purchases, such as the purchaser's name and address, exemption type (or reason for the exemption) claimed and any information or documentation required for that exemption. For example, if the purchaser is claiming the resale/lease exemption, the seller must also obtain the purchaser's sales tax license number/use tax registration number.

A purchase order intended to serve as a Blanket Certificate of Exemption for multiple purchases must expressly state that intention on the purchase order. A purchase order does 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.

**VI. Seller Liability.** As a general rule, a seller who receives and maintains a record of a properly completed Certificate of Exemption (or the required data elements) is not liable for sales or use tax on the transaction, even if a purchaser improperly claims an exemption.<sup>11</sup> In such cases, the purchaser will be liable for the tax if the exemption claim is later found to have been improperly made.<sup>12</sup> The seller has 120 days after the date of the sale to obtain proper documentation from the purchaser.<sup>13</sup> There are certain limited situations in which a seller can be liable for the tax, such as those involving fraud on the part of the seller.<sup>14</sup>

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<sup>9</sup> MCL 205.62(3); MCL 205.104b(3).

<sup>10</sup> MCL 205.68(7); MCL 205.104a(6).

<sup>11</sup> MCL 205.62(6); MCL 205.104b(6).

<sup>12</sup> For rules governing periods prior to January 9, 2009, refer to RAB 2002-15.

<sup>13</sup> MCL 205.62(6); MCL 205.104b(6). For periods after the 120 day period see Footnote 20.

<sup>14</sup> MCL 205.62(5); MCL 205.104b(5).

**VII. Recordkeeping Requirements.** All sellers are required to maintain accurate and complete sales records.<sup>15</sup> If an exemption from tax is claimed by a purchaser, the seller must keep a record 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 the claim is for the resale/lease exemption, the purchaser's sales tax license number/use tax registration number.<sup>16</sup>

Sellers must retain all data required to substantiate an exempt sale for a period of not less than four years from the date tax was due on the transaction.<sup>17</sup> A seller may comply with this requirement by either retaining the completed Certificate of Exemption, or by maintaining a record of the required information in another format, such as in a spreadsheet. If a seller fails to maintain or preserve the records as required, the statutes authorize the Department to assess the tax due based on an indirect audit procedure or any other information that is available or that may become available to the Department. Such an assessment is considered prima facie correct and the burden of refuting the assessment will be upon the seller.<sup>18</sup>

The seller shall obtain the same information for a claimed exemption regardless of the medium in which the transaction occurs. Consequently, a seller must maintain adequate records to substantiate exemption claims made by its purchasers, whether the sale occurs over the internet or in the seller's physical storefront.<sup>19</sup>

Do not send Certificates of Exemption to the Department unless required by the Department.

If at the time of a transaction the seller does not obtain a Certificate of Exemption (or the relevant data elements) from a purchaser, the seller may prove that the transaction was not subject to tax by other means, or obtain a fully completed Certificate of Exemption from the purchaser, by the later of the following:<sup>20</sup>

- A. 120 days after a request by the Department;
- B. the date an assessment becomes final;
- C. the denial of a claim for refund;
- D. in the instance of a credit audit, the issuance of an audit determination letter or informal conference decision and order of determination; or,
- E. the date of a final order of the court of claims or the Michigan tax tribunal, as applicable, with respect to an assessment, order, or decision of the Department.

The Department may, in its discretion, allow a seller additional time.

A certified service provider is considered a seller for all purposes covered by this RAB.<sup>21</sup>

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<sup>15</sup> MCL 205.68; MCL 205.104a.

<sup>16</sup> MCL 205.62(4); MCL 205.104b(4).

<sup>17</sup> MCL 205.68(1); MCL 205.104a(1).

<sup>18</sup> MCL 205.68(4); MCL 205.14a(4).

<sup>19</sup> MCL 205.62(1); MCL 205.104b(1).

<sup>20</sup> MCL 205.62(7); MCL 205.104b(7).

<sup>21</sup> MCL 205.62(10): "As used in this section, "certified service provider" means that term as defined in section 25 of the streamlined sales and use tax administration act, 2004 PA 174, MCL 205.825."