

5703-9-03

Sales and use tax; exemption certificate forms.

- (A) As used in this rule, "exception" refers to transactions excluded from the definition of retail sale by division (E) of section 5739.01 of the Revised Code. "Exemption" refers to retail sales not subject to the tax pursuant to division (B) of section 5739.02 of the Revised Code.
- (B) All sales are presumed to be taxable until the contrary is established. If a purchaser believes an exception or exemption is available, the purchaser must provide, electronically or in hard copy, a ~~properly~~fully completed exemption certificate to the vendor or seller. Unless the vendor or seller fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of exemption, the vendor or seller is relieved of the duty to collect sales tax on any sale covered by ~~the~~ a fully completed certificate. However, the purchaser remains responsible for any tax found to be due.
- (C) Pursuant to section 5739.031 of the Revised Code, no exemption certificate need be obtained by or furnished to a vendor or seller who receives and retains notice, from a purchaser who holds a direct payment permit that has not been canceled, of the purchaser's direct payment permit number and that the tax is being paid directly to the state. While it is advisable to obtain an exemption certificate for the following types of transactions, it is not mandatory that a certificate be obtained when the identity of the consumer is such that the transaction is never subject to the tax imposed, when the item of tangible personal property or the service provided is never subject to the tax imposed, regardless of use, or when the sale is in interstate commerce.
- (D)
- (1) A unit exemption certificate should be used to cover a single purchase and must be maintained with the primary purchase record. The unit exemption certificate may be incorporated into a purchase order, invoice, or bill of sale.
- (2) A blanket exemption certificate should be used to cover all purchases made on or after the effective date unless the purchaser specifies that a purchase is subject to the tax. Blanket certificates must be maintained in a separate exemption file or may be part of a customer file. The vendor or seller must charge tax when the purchaser indicates that a purchase is subject to the tax.
- (E)
- (1) If a vendor or seller is claiming the resale exception on the purchase of a motor vehicle, watercraft, or outboard motor, the vendor or seller may use the forms required to be prescribed by rule that are hereby prescribed for use as a unit

exemption certificate or as a blanket exemption certificate . The forms may be obtained from the department of taxation and are available on the department's web site. They may be reproduced as needed. Substitute exemption certificates may be developed and used as long as they contain the basic elements prescribed in paragraph (G) of this rule.

- (2) If a vendor, seller, or consumer is purchasing a motor vehicle, a watercraft that is required to be titled, or an outboard motor that is required to be titled and is claiming exception or exemption from the sales and use tax based on a reason other than resale, the vendor, seller, or consumer must comply with provisions of rule 5703-9-10 or 5703-9-25 of the Administrative Code.
 - (3) If a construction contractor is claiming exemption from sales or use tax on the purchase of materials for incorporation into real property, the construction contractor must comply with the provisions of rule 5703-9-14 of the Administrative Code.
- (F) To cover sales claimed to be excepted or exempted, an exemption certificate must be obtained ~~by the date the sales are required to be reported by the vendor or seller~~within ninety days subsequent to the date of sale.
- (G) To be valid, exemption certificates must contain the following data elements:
- (1) ~~Identify the vendor or seller~~The consumer's name and business address,
 - (2) ~~Reasonably apprise the tax commissioner of the statutory exception or exemption being claimed; and~~A tax identification (e.g. vendor's license or consumer's use tax account) for the consumer issued by this state, if any,
 - (3) ~~Be dated by, and if in hard copy signed by, the purchaser.~~The name and address of the vendor or seller from whom the purchase is being made,
- ~~If any of these elements is missing, or if the reason for claiming exception or exemption is not based on statutory authority, the certificate is invalid.~~
- (4) The purchaser's type of business or organization,
 - (5) The reason for the claimed exemption, and
 - (6) If the certificate is in hard copy, the signature of the purchaser.

If any of these elements is missing the certificate is invalid.

(H) The following forms are incorporated in this rule by reference:

- (1) The unit exemption certificate, revised March 15, 2004;
- (2) The blanket exemption certificate, revised March 15, 2004~~;~~ and
- (3) The exemption certificate form adopted by the Governing Board of the Streamlined Sales Tax System.

Effective: 11/29/2010

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CERTIFIED ELECTRONICALLY

Certification

11/19/2010

Date

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