

Business tax tip #6

Retail Sales Involving Exemption Certificates

What is an exemption certificate?

It is a wallet-sized card, bearing the holder's eight-digit exemption number. Certificates are issued to qualifying nonprofit religious, educational and charitable organizations, cemeteries, credit unions, veterans organizations and volunteer fire companies or rescue squads and contain an expiration date of September 30, 2022. Certificates issued to governmental entities are printed on white paper with red ink and contain no expiration date.

An exemption certificate should not be confused with a resale certificate. Resale certificates are used primarily by manufacturers, wholesalers and retailers to purchase, free of tax, the items they sell.

How to renew an exemption certificate expiring on September 30, 2017?

Information regarding the renewal application, including instructions to complete the renewal application online, will be mailed to organizations in May of 2017. Upon successful application to renew, the organization will receive a new exemption certificate with an expiration date five years from the current expiration (valid until September 30, 2022).

Prior to submitting a renewal application, the organization **MUST**:

- Have a valid IRS Determination letter or status (to verify status, visit the IRS website at <http://apps.irs.gov/app/eos/>; AND
- Be in good standing with the Maryland State Department of Assessments and Taxation ("SDAT") (verify status at SDAT's web page at <http://sdat.dat.maryland.gov/ucc->

charter/Pages/CharterSearch/default.aspx) OR if qualifying based on physical location in an adjacent jurisdiction (DC, VA, PA, WV, or DE) must be in good standing with that jurisdiction.

Failure to maintain an IRS determination letter or status and good standing will result in delay of processing, and possible rejection, of renewal application.

Who may use an exemption certificate?

The Comptroller's Office issues exemption certificates to nonprofit charitable, educational and religious organizations, volunteer fire companies and rescue squads, nonprofit cemetery companies, veterans organizations, government agencies and credit unions, if all qualifications are met.

Beginning January 1, 2017 an organization may apply for an exemption certificate by completing the [Sales and Use Tax Exemption Certificate Application](#).

The application can also be obtained from Taxpayer Service by calling 410-260-7980 in the Baltimore area, or toll-free 1-800-638-2967 from elsewhere in Maryland, Monday - Friday, 8:30 a.m. - 4:30 p.m. EDT.

Are out-of-state nonprofit charitable, educational and religious organizations entitled to a Maryland exemption certificate?

To qualify for a Maryland exemption certificate, an out-of-state nonprofit organization exempt from income tax under Section 501(c)(3) or Section 501(c)(19) of the Internal Revenue Code must have a location in Maryland or be located in an adjacent jurisdiction and satisfy one of the following conditions:

The organization provides its services in Maryland on a routine and regular basis;

The adjacent jurisdiction does not impose a sales or use tax on a sale to a nonprofit organization made to carry on its work; or

The adjacent jurisdiction has a reciprocal exemption from sales and use tax for sales to nonprofit organizations located in adjacent jurisdictions similar to Maryland's exemption.

What kinds of purchases may be made with an exemption certificate?

An organization may use its exemption certificate to purchase tangible personal property that will be used in carrying on its work. This includes office supplies and equipment and supplies used in fund-raising activities, but does not include items used to conduct an "unrelated trade or business," as defined by Section 513 of the United States Internal Revenue Code.

An exemption certificate is not transferable and applies only to purchases made by the organization listed on the certificate. The purchase may be made with cash, personal check, or personal credit card on behalf of the organization. It may not be used by officials, members, or employees to purchase items for their personal use or to purchase items that will be donated to the organization.

Are government employees permitted to use the government's exemption certificate?

While government employees may use the exemption certificate to make purchases of goods for the government agency, there is an important exception. The sales and use tax law does not exempt sales to a government employee who, for example, rents a hotel room or purchases a meal and pays for it with cash, personal check or personal credit card. Those employees are required to pay the Maryland sales and use tax to the vendor. The tax is due on those transactions even though the employee may have documentation provided by the government agency that the purchaser is a government employee or may be reimbursed by the government for those expenses.

What about purchases with federal government charge cards?

Federal government purchases made by using the following charge cards administered by the U.S. General Services Administration's GSA

SmartPay charge cards are exempt from the Maryland sales and use tax since they are billed directly to the federal government:

Purchase MasterCard cards with the first four digits of 5565 or 5568.

Purchase VISA cards with the first four digits of 4614 or 4716.

Fleet VISA cards with the first four digits of 4486.

Fleet MasterCard cards with the first four digits of 5563 or 5568.

Fleet WEX cards with the first four digits of 6900 or 7071.

Fleet Voyager cards with the first four digits of 7088.

Travel MasterCard cards with the first four digits of 5565 or 5568, and with a sixth digit of 0, 6, 7, 8 or 9.

Travel MasterCard cards with the first four digits of 4486, 4614, or 4615, and with a sixth digit of 0, 6, 7, 8 or 9.

Purchases made by using the following charge cards are subject to the Maryland sales and use tax since they are billed directly to the individual and are not treated as direct sales to the federal government:

Travel MasterCard cards with the first four digits of 5565 or 5568, and a sixth digit of 1, 2, 3 or 4.

Travel VISA cards with the first four digits of 4486 or 4614, and a sixth digit of 1, 2, 3 or 4.

Are local parent-teacher associations exempt?

Yes and no. PTAs and similar organizations located in Maryland do not qualify for Maryland sales and use tax exemption certificates.

Purchases by PTAs of tangible personal property to carry on its work

are taxable. However, PTAs located in Maryland may be exempt from the tax on purchases of tangible personal property if the organization contributes the property to a school and that school's purchases are exempt under the sales and use tax law. Exempt schools include public schools and any other school that has been issued an exemption certificate by the Comptroller as a non-profit educational organization.

What should a vendor do when an exemption number or certificate is presented?

A vendor making a sale to an exempt organization must record the organization's name and certificate number on the record of sale. A vendor must see an exemption certificate before completing the sale, but does not need to keep a copy of the certificate unless the organization is purchasing gas, electricity, steam, oil or coal.

Can a contractor use an organization's exemption certificate?

A contractor may use an organization's exemption certificate to purchase materials that will be used to construct, improve, alter or repair the real property of private, nonprofit charitable, educational, and religious organizations, volunteer fire companies and rescue squads and nonprofit cemeteries. The materials must be incorporated into the realty to qualify for the exemption. Sales of materials used to improve the realty of government entities, credit unions and veterans organizations are taxable and their certificates may not be used by contractors.

How can a contractor tell if an organization is eligible for this exemption?

The first two digits of the organization's exemption number designate the category it is in. A contractor may use an exemption certificate from a nonprofit organization if the first two digits of its exemption number are:

29 (religious organizations),

31 (charitable and educational organizations), or

33 (volunteer fire departments, rescue squads and ambulance companies),

A contractor may **not** use an exemption certificate from an organization if the first two digits of its exemption number are:

30 (government agencies),

32 (credit unions), or

34 (veterans organizations).

If an organization has an exemption certificate, does it have to collect tax on items it sells?

Usually, yes. Any organization making ordinarily taxable sales of tangible personal property, including meals, must obtain a sales and use tax license and collect and remit the tax, even though the organization has an exemption for items it purchases. The organization must collect tax on sales to anyone, including members, students and beneficiaries, even if the item has been donated or sold at or below cost.

Which sales by an organization with an exemption certificate are exempt from sales and use tax?

Sales by churches or religious organizations for their general purposes.

Sales of food by schools other than post-secondary institutions.

Sales of food by a nonprofit organization if there are no facilities for food consumption on the premises and the food is not sold within an enclosure for which a charge is made for admission.

Sales of food served by a volunteer fire, ambulance or rescue company or an auxiliary if the proceeds are used to support the organization.

Sales of magazine subscriptions in a fundraising activity by an elementary or secondary school in the state if the net proceeds are used solely for the educational benefit of the school or its students.

Sales made in hospital thrift shops operated entirely by volunteers selling only donated articles for the benefit of the hospital.

Sales made by an auctioneer for a bonafide church or religious organization if the proceeds are used for exempt purposes. The tax should not be collected on the portion of the price that qualifies for a deduction as a charitable contribution under IRS guidelines.

May an exemption certificate be used to purchase items that will be resold?

Only churches, religious organizations and government agencies may use an exemption certificate to purchase items for resale without paying sales and use tax. All other organizations must issue a resale certificate, with their Maryland sales and use tax registration number, to purchase these items tax free. For more information about resale certificates, see [Business Tax Tip #4 - If You Make Purchases for Resale](#).