

MEMORANDUM

TO Jamey Carroll, CPA

FROM Bruce P. Ely and James E. Long, Jr.

DATE April 4, 2024

SUBJECT New Streamlined Exemption Certificate Procedure for Tax-Exempt Construction Projects-- How It's Working So Far

- You asked us to relay our recent experience in dealing with all the parties to a major construction project for an institution that is statutorily exempt from Alabama sales and use tax, but is not classified as a government entity. As you know, prior to Act 2023-526, contractors with construction projects on behalf of certain government entities could apply to the Alabama Department of Revenue (Department) for a project-specific exemption certificate. Once issued by the Department, the project-specific exemption certificate allowed the government entity, its contractor and subcontractors to make qualifying project purchases without paying Alabama sales or use tax.
- In contrast, non-government entities exempt by statute from Alabama sales and use taxes couldn't apply for a project-specific exemption on behalf of their general contractor. Instead, these entities had to appoint their general contractor as "purchasing agent" in order to utilize their statutory exemption. The purchasing agent procedure often complicated and delayed the pay application process because the exempt owner must generally pay for materials directly to the vendor or via its own funds in a managed bank account to qualify for the exemption.
- Effective for construction contracts entered into on or after January 1, 2024 (no grandfathering), Act 2023-526 extends the same project-specific exemption certificate procedure to construction contracts on behalf of all entities that have a statutory exemption from sales and use taxes. In other words, projects for government entities and "statutorily-exempt entities" (in the Department's vernacular) now can follow the same procedures to purchase construction materials exempt from Alabama and local sales and use taxes. The GC must apply for an exemption certificate and also each subcontract should also apply for its own exemption certificate so they can purchase construction materials for the project on a tax-exempt basis.
- The Act doesn't create a new sales and use tax exemption; rather, it simplifies the process for contractors and statutorily-exempt entities to purchase materials tax-free using the owner's existing sales/use tax exemption.
- To its credit, the Department promptly issued a proposed rule and FAQs followed by final rules, as well as a new application form, **Form ST: EX-A1-SE**, a copy of which is attached. The new procedure requires the statutorily-exempt owner, its GC, and each subcontractor to separately

apply for an exemption certificate from the Department, prior to making any purchases. The project owner applies on revised **Form ST: EXC-1**, checking the “Statutorily Exempt Entity” box under Applicant’s Information. The GC uses the same form except it checks the “General Contractor” box, while each sub uses the new form. In our recent experience, the GC prepared the applications for its subs in draft form and either filed it for them or assisted them in filing the application themselves. Importantly, the GC must provide a list of subcontractors with their application, and this list can be updated (via the e-mail contact below) as needed during the life of the project – this will allow the Department to cross-check the sub’s application and against the GC’s.

- The Department recently issued a Notice that these applications must now be e-filed through its MAT system. A copy of the notice is attached. They also are a very responsive to questions posed to them via STContractorsExempt@revenue.alabama.gov.

If we can assist you in advising any of your GC or subcontractor clients on the new tax exemption certificate procedure, please let us know.

Attachments (2)



ALABAMA DEPARTMENT OF REVENUE
SALES AND USE TAX DIVISION
P.O. Box 327710 • Montgomery, AL 36132-7710

ST: EXC-01
11/23

Application For Sales and Use Tax Certificate of Exemption

FOR GOVERNMENT ENTITY PROJECT

This Certificate of Exemption will be limited to purchases which qualify for an exemption of sales and use taxes pursuant to Rule No. 810-6-3-.77

PROJECT INFORMATION:

PROJECT NAME		PROJECT OWNER'S FEIN (EXEMPT ENTITY)	
STREET ADDRESS OF PROJECT (CITY AND COUNTY INCLUDED)	CITY	ZIP	COUNTY

APPLICANT'S INFORMATION:

RELATION: (CHOOSE ONE)

Government Entity
 Statutorily Exempt Entity
 General Contractor
 Subcontractor

APPLICANT'S LEGAL NAME	FEIN
DBA	CONSUMER'S USE TAX ACCOUNT NUMBER
MAILING ADDRESS: STREET	CITY STATE ZIP COUNTY
CONTACT PERSON	BUSINESS TELEPHONE NUMBER ()
EMAIL ADDRESS	

PROJECT START DATE	PROJECT END DATE
WILL THE APPLICANT HAVE ANY SUBCONTRACTORS ON THIS JOB? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please attach list.	NAME OF PARTY TO THE CONTRACT

JOB DESCRIPTION

WILL ANY POLLUTION CONTROL EXEMPTION BE APPLICABLE? <input type="checkbox"/> Yes <input type="checkbox"/> No	ESTIMATED POLLUTION CONTROL COST \$	
TOTAL PROJECT BID AMOUNT (APPLICANT'S PORTION OF PROJECT) \$	LABOR COST (APPLICANT'S PORTION OF PROJECT) \$	MATERIAL COST (APPLICANT'S PORTION OF PROJECT) \$

REVENUE DEPARTMENT USE ONLY

PENDING DOCUMENTATION / INFORMATION:

GCL SBL Contract / NTP / LOI LOS Project Dates / Breakdown of Costs

Contact Dates: _____ Received Date: _____

Forwarded for Denial: _____

PROJECT NAME

PROJECT OWNER'S FEIN (EXEMPT ENTITY)

FORM OF OWNERSHIP:

Individual Partnership Corporation Multi member LLC Single member LLC Government Entity

If applicant is a corporation, a copy of the certified certificate of incorporation, amended certificate of incorporation, certificate of authority, or articles of incorporation should be attached. If the applicant is a limited liability company or a limited liability partnership, a copy of the certified articles of organization should be attached.

OWNERSHIP INFORMATION:

Corporations – give name, title, home address, and Social Security Number of each officer.

Partnerships – give name, home address, Social Security Number or FEIN of each partner.

Sole Proprietorships – give name, home address, Social Security Number of owner.

LLC – give name, home address, and Social Security Number or FEIN of each member.

LLP – give name, home address, and Social Security Number or FEIN of each partner.

NAME (PLEASE PRINT)

SIGNATURE

TITLE

DATE

REVENUE DEPARTMENT USE ONLY

PENDING OTHER:

Government Entity General Contractor Not on LOS

Contact Dates: _____ Received Date: _____

Forwarded for Denial: _____

Examiner's Remarks _____

Examiner _____ Date _____

Instructions For Preparation of Form ST: EXC-01

Sales and Use Tax Certificate of Exemption for Government Entity Project

NOTE: Exemption Certificates will be issued as of the project start date or the received date of the application. If, upon receipt of the application, the project has already commenced, the certificate will be issued as of the received date of the application. Any purchases made prior to the issuance of a certificate will not be exempt.

In order to expedite the processing of your application, please include the following documentation when submitting your application:

Exempt Entity:

1. Signed Application
2. Copy of Executed/Signed Contract, Letter of Intent, Notice of Award, and/or Notice to Proceed

General Contractor:

1. Signed Application
2. Copy of Executed/Signed Contract, Letter of Intent, Notice of Award, and/or Notice to Proceed
3. List of Subcontractors
4. Alabama Board of General Contractor's License
5. State/County Business License (usually obtained through county probate office)

Subcontractor:

1. Signed Application
2. Alabama Board of General Contractor's License
3. State/County Business License (usually obtained through county probate office)
4. List of Subcontractors (if any)

General contractors and subcontractors:

- Any additions and/or deletions to the list of subcontractors working on a project must be submitted to the Department within 30 days of occurrence.
- If an extension is needed for a project, please contact the Department of Revenue at the address, number, or email listed below. Extension requests should be submitted no more than 30 days after expiration date.
- Subcontractors Project Start Date should be the date they will begin working on the project and ordering materials

The application and required documentation may be mailed, faxed, or emailed to the following:

Fax: (334) 353-7867

Email: STContractorsExempt@revenue.alabama.gov

Mailing Address: ATTN: Contractor's Exemption
Alabama Department of Revenue
Sales & Use Tax Division
Room 4303
PO Box 327710
Montgomery, AL 36132-7710