

ALABAMA DEPARTMENT OF REVENUE - SALES AND USE TAX RULES
Code of Alabama 1975, Sections 40-23-31 and 40-23-83

810-6-4-.24.01. Sales and Use Tax Certificate of Exemption for an Industrial or Research Enterprise Project (Form STE-2) - Responsibilities of the Certificate Holder - Burden of Proof - Liability for Taxes Later Determined to be Due.

(1) Unless otherwise defined herein, the definitions of terms set forth on Code of Alabama 1975, Section 40-9B-3, are incorporated by reference herein.

(2) The term "Department" as used in this rule shall mean the Department of Revenue of the State of Alabama.

(3) As used in this rule, the term "project" means a private use industrial development property or a major addition to a private use industrial development property.

(4) The sales and use tax certificate of exemption (Form STE-2) referenced in Sales and Use Tax Rule 810-6-4-.24 may be issued by the Department to (i) a private user who has been granted an abatement of sales and use taxes in accordance with Chapter 9B of Title 40, (ii) a contractor or subcontractor who will purchase, store, use, or consume tangible personal property to be incorporated into a project for which the private user has been granted a valid abatement pursuant to Chapter 9B of Title 40, or (iii) both. The certificate of exemption shall be used only by the person or entity to whom it is issued; therefore, each eligible party desiring to make tax-exempt purchases pursuant to an abatement of construction-related sales and use taxes granted under authority of Chapter 9B of Title 40 shall make a separate application for an exemption certificate. Upon receipt and approval of a properly completed application, the Department will issue the qualified applicant a Form STE-2 which the certificate holder shall copy, complete, and provide to its vendors as documentation for the tax exempt status of the certificate holder's qualifying purchases of tangible personal property.

(5) A prime contractor applying for a Form STE-2 shall submit, with the application, written confirmation from the private user that the applicant will be making purchases of tangible personal property to be incorporated into the project referenced on the application. A contractor or subcontractor applying for a Form STE-2 shall submit, with the application, written confirmation from the private user or the prime contractor that the applicant will be making purchases of tangible personal property to be incorporated into the project referenced on the application.

(6) The application referenced in paragraph (4) shall require the following information:

- (a) Applicant's Federal Employer Identification Number,
- (b) Applicant's legal name and complete mailing address,
- (c) Address of the project site,
- (d) Business phone number,

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- (e) Date the abatement was granted,
 - (f) Estimated completion date of the project for which the abatement has been granted, and
 - (g) Signature and title of sole proprietor, each partner, or an elected corporate officer and the date of the signature.
- (7) The Department, upon approving an application for a Form STE-2, will provide the applicant with a Form STE-2 containing the following information:
- (a) Project number,
 - (b) Restrictions to the scope of the certificate holder's exempt status,
 - (c) Effective date of the exemption certificate,
 - (d) Expiration date of the exemption certificate,
 - (e) Statement of the duties and responsibilities of the vendor to whom a certificate is provided by the certificate holder,
 - (f) Statement, to be declared by the certificate holder under penalties of false swearing, as to the validity of the exemption claim,
 - (g) Certificate holder's name and address,
 - (h) Date of approval or issuance by the Department, and
 - (i) Signature of approval by the Department.
- (8) At the time of providing a copy of a Form STE-2 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 certificate 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, and
 - (c) Certificate holder's signature and title.
- (9) A certificate holder regularly making tax exempt purchases of the kind and nature for which the Form STE-2 has been issued may furnish a properly executed certificate to the seller specifying that all tangible personal property subsequently

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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 the tangible personal property purchased qualifies for the abatement.

(10) The certificate holder shall maintain a list of all vendors to whom a copy of the exemption certificate is furnished. This list should be retained in the certificate holder's 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.

(11) When the project for which the abatement has been granted is placed in service, the certificate holder shall return the certificate to the Department.

(12) The certificate holder shall notify the Department immediately in writing of any change in name or mailing address.

(13) The burden of proof that a sale is exempt is upon the person making the sale unless the seller takes from the certificate holder a properly executed Form STE-2. Any sale for which an exemption has been claimed but which is not supported by a Form STE-2 shall be deemed a sale at retail by the Department and the seller held liable for the tax thereon. A seller who sells tangible personal property tax-exempt based upon the presentment of a Form STE-2 by the purchaser shall reference the Project Number shown on the Form STE-2 on the invoice or billing to the certificate holder.

(14) Any person, firm, or corporation selling tangible personal property tax free who relies on a Form STE-2 and reasonably believes the tax exemption claim is legal shall not be held liable for sales or use tax subsequently determined by the Department to be due on the sale for which the certificate was received. Instead, the Department will collect or recover the tax due from the party or parties who made the illegal tax-free purchase with the Form STE-2 and the person or persons who benefitted from the illegal use of the Form STE-2. (Sections 40-23-120 and 40-23-121)

(15) With the exception of the certificates which are provided for in Sections 40-23-4(a)(10), 40-23-62(12), and 40-23-4.3, Code of Alabama 1975, and Form STE-1 provided for in Sales and Use Tax Rule 810-6-5-.02 pursuant to Section 40-23-120, Form STE-2 is the only exemption certificate or exemption number which relieves the seller, when acting in good faith and exercising reasonable care, of liability for any sales or use tax later determined by the Department to be due on a sale for which an exemption was originally claimed.

(16) The authority granted to the Department in Section 40-23-121 shall include but is not limited to the power to examine the certificate holder's records; assess the certificate holder for tax, penalty, and interest; and file tax liens. (Adopted through APA effective December 10, 1996, amended October 20, 1998)