



STATE OF HAWAII
DEPARTMENT OF TAXATION

P.O. BOX 259
HONOLULU, HAWAII 96809-0259

November 10, 1993

TAX INFORMATION RELEASE NO. 93-5

RE: Use in Hawaii of the Uniform Sales and Use Tax Certificate
(Multijurisdiction) Issued by the Multistate Tax Commission

The Multistate Tax Commission, a multistate organization of which Hawaii is a member, has issued a uniform certificate that may be used by manufacturers, wholesalers, or lessors that do business in several states.

The laws of many states imposing a sales tax provide an exemption for property that is purchased for wholesale, resale, or leasing, or property that is an ingredient or a component of a product to be resold in the normal course of business. In some states, a manufacturer, wholesaler, or other seller of property can use a certificate from its purchaser as evidence that the property was bought for resale, lease, rental, or use in manufacturing or producing, and thus is exempt from sales tax. The uniform certificate issued by the Multistate Tax Commission was designed to be used for this purpose.

The Hawaii General Excise Tax Law, chapter 237, Hawaii Revised Statutes (HRS), is not a sales tax. It does not provide an exemption, but does provide a reduced rate of tax, for a manufacturer, wholesaler, or producer.

Section 237-13(2)(F), HRS, provides that the Department of Taxation may allow a seller of tangible personal property to take from the purchaser a certificate, in a form prescribed by the department, certifying that the sale is a sale at wholesale. Such a certificate is known as a "resale certificate".

Section 18-237-13-02(d), Hawaii Administrative Rules (HAR), describes the effect of a resale certificate and explains the duties of sellers and purchasers in determining whether the seller is entitled to the reduced general excise tax rate for wholesalers, manufacturers, or producers.

Section 237-13(2)(F)(i), HRS, and section 18-237-13-02(d)(2)(B), HAR, state that if a purchaser gives a resale certificate to the seller and the sale is not in fact eligible for the reduced wholesale rate, the purchaser shall pay to the seller the amount of additional tax that is imposed upon the seller for that reason.

Section 237-13(2)(F)(ii), HRS, and section 18-237-13-02(d)(2)(C), HAR, state that if a purchaser does not give a resale certificate to the seller, or if the resale certificate is not in proper form, the sale shall be presumed to be a retail sale unless the seller's business consists exclusively of sales at wholesale.

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The Department of Taxation has determined that the Uniform Sales and Use Tax Certificate (Multijurisdiction) is acceptable for sellers to use as a resale certificate in Hawaii. Taxpayers are cautioned, however, that the certificate shall not be accepted as an exemption certificate.

The Hawaii Use Tax Law, chapter 238, HRS, contains no provision regarding resale certificates. However, a seller that otherwise would be required to collect Hawaii use tax under section 238-6, HRS, may use a resale certificate as evidence that an item sold to a Hawaii purchaser is being purchased for resale, or for incorporation into a finished or saleable product.

The Department of Taxation will ask the Multistate Tax Commission to revise its certificate to include an appropriate legend describing its proper use in Hawaii, however, the effect of the certificate, and the duties of the buyer and seller, shall be as explained in section 18-237-13-02(d), HAR, irrespective of what is printed on the certificate.

A copy of the current version of the Uniform Sales and Use Tax Certificate (Multijurisdiction) is attached to this Tax Information Release.


RICHARD F. KAHLE, JR.
Director of Taxation

Attachment

HRS Sections Explained: §§237-13(2)(F), 238-6
Rules Explained: §18-237-13-02(d)

**UNIFORM SALES & USE TAX CERTIFICATE
MULTIJURISDICTION**

Issued to Seller: _____
 Address: _____

I certify that:

Name of Firm (Buyer): _____ is engaged as a registered
 Address: _____ Wholesaler _____
 _____ Retailer _____
 _____ Manufacturer _____
 _____ Lessor (¹See notes _____
 _____ on reverse side) _____
 _____ Other (Specify) _____

and is registered with the below listed states and cities within which your firm would deliver purchases to us and that any such purchases are for wholesale, resale, ingredients or components of a new product to be resold, leased, or rented in the normal course of our business. We are in the business of wholesaling, retailing, manufacturing, leasing (renting) the following:

Description of Business: _____
 General description of products to be purchased from the seller: _____

State ¹	State Registration or ID No.	State ¹	State Registration or ID No.
AL(2)	_____	NV	_____
AR	_____	NM(4)	_____
CO	_____	ND	_____
DC	_____	OK(2)	_____
GA	_____	RI(5)	_____
ID	_____	SC	_____
IL(3)	_____	SD	_____
IA	_____	TN	_____
KS	_____	TX(6)	_____
ME(3)	_____	UT	_____
MD	_____	VT	_____
MI	_____	WA(7)	_____
MN	_____	WI(5)	_____
MO	_____	WY	_____
NE	_____		

I further certify that if any property so purchased tax free is used or consumed by the firm as to make it subject to a Sales or Use Tax we will pay the tax due directly to the proper taxing authority when state law so provides or inform the seller for added tax billing. This certificate shall be part of each order which we may hereafter give to you, unless otherwise specified, and shall be valid until canceled by us in writing or revoked by the city or state.

Under penalties of perjury, I swear or affirm that the information on this form is true and correct as to every material matter.

Authorized Signature: _____
 (Owner, Partner or Corporate Officer)

Title: _____
 Date: _____

¹This form of certificate has been determined to be acceptable by the above states. See notes on back.

INSTRUCTIONS REGARDING-UNIFORM SALES & USE TAX CERTIFICATE

To Seller's Customers:

In order to comply with the majority of state and local sales tax law requirements, the seller must have in its files a properly executed exemption certificate from all of its customers who claim a sales tax exemption. If the seller does not have this certificate, it is obliged to collect the tax for the state in which the property is delivered.

If the buyer is entitled to sales tax exemption, the buyer should complete the certificate and send it to the seller at its earliest convenience. If the buyer purchases tax free for a reason for which this form does not provide, the buyer should send the seller its special certificate or statement.

Caution to Seller:

In order for the certificate to be accepted in good faith by the seller, seller must exercise care that the property being sold is of a type normally sold wholesale, resold, leased, rented, or utilized as an ingredient or component part of a product manufactured by buyer in the usual course of its business. A seller failing to exercise due care could be held liable for the sales tax due in some states or cities. Misuse of this certificate by seller, lessor, buyer, lessee, or the representative thereof may be punishable by fine, imprisonment or loss of right to issue certificate in some states or cities.

Note:

²Alabama and Oklahoma hold a seller liable for sales tax due on any sales with respect to which an exemption certificate is found to be invalid, for whatever reason.

³Illinois and Maine do not have an exemption on sales of property for subsequent lease or rental.

⁴New Mexico will accept, in lieu of a nontaxable transaction certificate and as evidence of the deductibility of a specific transaction, this certificate only when the following conditions exist.

- (a) Both the seller and purchaser are located outside New Mexico;
- (b) The seller maintains sufficient nexus within New Mexico to be subject to the New Mexico gross receipts tax on its transaction in or into New Mexico;
- (c) The purchaser's activity within or into New Mexico does not create nexus for liability under either the gross receipts tax or as an agent for the collection of compensating tax; and
- (d) The purchaser requests that the seller deliver or "drop-ship" the tangible personal property to the purchaser's customer in New Mexico.

⁵Rhode Island and Wisconsin allow this certificate to be used to claim a resale exemption only when the item will be resold in the same form. They do not permit this certificate to be used to claim any other type of exemption.

⁶Texas: Items purchased for resale must be for resale within the geographical limits of the United States, its territories and possessions.

⁷Washington:

- A. Blanket resale certificates must be renewed at intervals not to exceed four years:
- B. This certificate may be used to document exempt sales of "chemicals to be used in processing an article to be produced for sale."