

Business tax tip #4

If You Make Purchases for Resale

If you're a buyer. . .

Does my sales and use tax license entitle me to make purchases without paying sales and use tax?

No. Contrary to what many people believe, a sales and use tax license alone does not exempt you from paying sales and use tax.

What type of purchases can I make without paying sales and use tax?

You may make tax-exempt purchases of property and taxable services that you intend to resell or that you will incorporate into a product for sale. To receive this exemption, you must give the seller a resale certificate.

What is a resale certificate?

A resale certificate is a written statement you provide to the seller stating that the merchandise or taxable service you buy will be resold in a taxable sale or will be incorporated into tangible personal property.

What information should be included on a resale certificate?

Although there is no specifically required form for a resale certificate, it must include the buyer's name, address, Maryland sales and use tax registration number, and a signed statement indicating that the purchase of tangible property or taxable service is intended for resale or will be incorporated into a product or service for sale. **See suggested sample certificate.**

What is my sales and use tax registration number?

Your sales and use tax registration number is an eight-digit number that has been assigned to your business. You'll find your registration number on each sales and use tax return we send you as well as on your sales and use tax license. Valid account numbers begin with "0" or "1."

Are there any limitations on resale certificates?

Yes. Resale certificates may not be used to make tax-free purchases for resale if the purchase is less than \$200 and payment is by cash, check or credit card unless the seller delivers the goods directly to the buyer's retail place of business. However, you may present a resale certificate to make a tax-free purchase of goods for less than \$200 if you are purchasing goods: (1) on credit by the seller; (2) which would be exempt even if not sold for resale; or (3) which are alcoholic beverages regulated by Article 2B of the Annotated Code of Maryland.

Must I fill out a new resale certificate every time I make an eligible purchase?

No. If you frequently deal with the same supplier, you may provide that supplier with a "blanket" resale certificate if all of your future purchases will be for resale. Subsequent purchase orders provided to that seller simply need to include your sales and use tax registration number.

How can I claim a credit for tax I've paid?

You may claim a credit for any tax paid on these purchases on line 9 of your next sales and use tax return, up to the lesser of \$1,000 or the amount of tax due. No documentation is required with the return, but you should retain invoices showing tax paid on purchases made for resale for a period of four years from the date of purchase. You may also apply directly to the Comptroller of Maryland for a refund. For expedited refunds, complete **Form ST 212 - Purchases for Resale Refund By Fax** and fax the completed form to us at 410-333-7744. You can also obtain Form ST 212 from Taxpayer Service.

If you're a seller...

What should I do with resale certificates my customers give me?

You should maintain resale certificates as part of your business records. You must be able to match your sales records with the appropriate resale certificates for audit purposes. Resale certificates maintained as part of your business records should be periodically reviewed for accuracy and completeness.

Do I have any special responsibilities with regard to resale certificates?

Yes. You may not accept resale certificates when you know the property or service being sold is not for resale. You may be held liable for uncollected taxes if you accept resale certificates for sales that you know or should know are not for resale.

May I accept resale certificates for any amount?

No. You may not accept resale certificates for cash, check, or credit card sales of less than \$200 unless you deliver the goods sold directly to the buyer's retail place of business. The tax does not have to be collected on sales of goods for less than \$200 if the sale is made on the credit of the purchaser, on sales of goods which would be exempt even if not sold for resale, or on sales of alcoholic beverages regulated by Article 2B of the Annotated Code of Maryland.

May I accept resale certificates from a customer with an out-of-state registration number?

Except for sales of antiques and used collectibles, sellers may not accept resale certificates from out-of-state customers who do not have a Maryland sales and use tax license. Buyers licensed to remit taxes in other states who make purchases for resale may apply to the Comptroller of Maryland for a refund, using Form ST 212.

Sellers may accept from buyers of antiques or used collectibles a resale certificate with the sales and use tax registration of another state if the buyer is not required to have a Maryland sales and use license. Buyers from states without a sales and use tax must provide the seller with a copy of the buyer's trader's license or comparable type of identification with that state. An out-of-state vendor who has been issued a temporary sales and use tax license to collect the Maryland tax may use the number on that license to

make tax-free purchases for resale at the show for which the license was issued. Temporary licenses bear 10- digit numbers that begin with "7125."

In all situations, sellers who do not deliver goods directly to the buyer's retail place of business must charge the tax on cash, check, or credit card sales of less than \$200.

What about third-party drop shipments?

In a typical transaction, you would sell merchandise to vendor "A," who is not registered to collect Maryland sales and use tax. Seller "A" asks you to deliver the merchandise to customer "B," a customer in Maryland. You must do one of two things:

- Require that seller "A" obtain a Maryland sales and use tax license and provide you with a valid resale certificate; or
- Charge seller "A" the tax based on the amount of the sale.

Is a resale certificate the same thing as an exemption certificate?

No. Exemption certificates are issued by the Comptroller of Maryland to qualifying nonprofit organizations and government agencies to make purchases for their own use. The exemption certificate is a wallet-sized card bearing the holder's eight-digit exemption number. Cards issued to nonprofit organizations have a specific expiration date, presently September 30, 2022 for religious; educational and charitable organizations; nonprofit cemeteries; credit unions; certain veterans organizations and their auxiliaries and units; and volunteer fire companies or rescue squads. Certificates issued to government agencies have no expiration date. Except for religious organizations that have a Maryland exemption certificate, organizations and government agencies may not use their exemption certificate to purchase items or taxable services for resale.

How can I protect myself from unnecessary tax liabilities?

You must clearly document the reason for all tax-exempt sales. Otherwise you will be held responsible for uncollected tax, plus penalties and interest. You should establish procedures to obtain valid resale certificates at the point of sale, and review your files periodically for accuracy and completeness.

Make certain that you do not allow resale exclusions on cash, check or credit card sales of less than \$200 when you do not deliver the goods sold directly to the buyer's retail place of business.