



Be Wary of Arizona's New Sales Tax Exemption Certificates

This month's state and local tax (SALT) column explains the onerous new restriction the Arizona Department of Revenue (Department) recently imposed on taxpayers who must obtain exemption certificates from their customers, and it introduces a few new and revised Arizona exemption certificates.

The Arizona Department of Revenue recently introduced three new transaction privilege (sales) tax exemption certificates and revised three others.

A New, Burdensome Restriction

As usual, most of the certificates allow customers to specify whether the certificate is valid for a single transaction or for a period of time. But now, for the first time and apparently without statutory or other legal support for its position, the Department specified that four of the six certificates cannot cover a period exceeding 12 months.

If this requirement is upheld, taxpayers will have to request new exemption certificates from their customers at least once per year. Many taxpayers are unhappy about the burden imposed by this new requirement, disappointed that the Department made this change without first consulting with taxpayer advocacy groups, and hope that the Department will reconsider this onerous requirement.

The new, 12-month limitation was included in the October 2015 versions of Arizona forms 5000, 5000A, 5000HC, and 5000M. Like the rest of the certificates identified below, these new and revised certificates are available on the Department's website.

Revisions to Arizona Form 5000

Arizona Form 5000 allows Arizona taxpayers to document a wide variety of exemptions. The Department made several changes to this form besides suggesting it may only be issued for periods of up to 12 months.

For instance, the Department specified that taxpayers should begin documenting sale for resale exemptions on Arizona Form 5000A instead of on Form 5000. Likewise, it indicated that contractors who do not have Arizona sales tax licenses should use Arizona Form 5000M (addressed in more detail below) instead of Form 5000.

The Department also removed some of the boxes on Form 5000 that were used to claim uncommon exemptions and some exemptions for transactions with nonprofit health care institutions (which, as discussed below, were moved to Arizona Form 5000HC). The Department also added space for taxpayers to claim municipal exemptions now that it will soon begin collecting municipal sales taxes for all Arizona municipalities.



by James G. Busby, Jr., CPA

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Revisions to Arizona Form 5000A

Arizona Form 5000A is used to document sales for resale. It is one of the certificates that, the Department claims, may not be issued for a period to exceed 12 months.

The Department added some language on this form to explain that some customers, like agencies of the U.S. government and unlicensed Arizona school districts, may purchase items for resale without providing a sales tax license number. The Department indicated that those nonprofit organizations that qualify to purchase items for resale in Arizona should attach a copy of their IRS determination letter to this exemption certificate.

New Certificate for Health Care Organizations

New Arizona Form 5000HC is used to document exemptions for transactions with nonprofit health care institutions, including qualifying hospitals, qualifying health care

organizations, qualifying rehabilitation centers for mentally or physically disabled persons, and qualifying community health centers. These organizations must obtain an annual exemption letter from the Department, and Arizona Form 500HC is only valid for the period covered by their exemption letter.

New and Revised Certificates for Contractors and MRRRA Projects

As I explained in this column last year, Arizona implemented extensive changes to its sales tax laws regarding the taxation of contractors that went into effect on January 1, 2015. For instance, subcontractors working for a prime contractor on a job that is subject to Arizona's prime contracting tax may now purchase building materials tax-free using Arizona Form 5009L, even if they do not have a sales tax license.

More recently, the Department introduced new Arizona Form 5000M, which allows contractors lacking a sales tax license to purchase tangible

personal property tax-free if it will be used on a qualifying, nontaxable, maintenance, repair, replacement, or alteration ("MRRRA") project.

Finally, the Department revised Arizona Form 5005 to accommodate both MRRRA projects and projects subject to prime the contracting tax. Form 5005 may be provided to subcontractors by prime contractors, or those taking responsibility for the taxes due on materials for MRRRA projects, as proof that the subcontractors are not responsible for such taxes on the project(s) covered by the certificate.

Practice Tip! -Taxpayers subject to Arizona sales tax generally should collect tax from their customers unless the customer provides a valid, complete exemption certificate. If the Department's allegation that some exemption certificates may not cover periods exceeding 12 months is upheld, many Arizona taxpayers may have to collect exemption certificates more often than they had to previously. ■