

COMMISSIONER'S DIRECTIVE #24

July 2004

DISCLAIMER: Commissioner's Directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore the information provided herein should only serve as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Elimination of Form ST-136A, Indiana Out-of-State Purchaser's Sales Tax Exemption Affidavit

I. INTRODUCTION

Effective July 1, 2004 the ST-136A Form is no longer an effective document for out of state purchasers to claim an exemption from Indiana sales tax for purchases in Indiana that would be exempt if purchased in their state of residence.

II. STATUTORY CHANGES

IC 6-2.5-13-1(d)(1) provides that when there is a sale of tangible personal property, the sale shall be sourced to the business location of the seller when the product is received by the purchaser at the business location of the seller.

III. ALTERNATIVE EXEMPTIONS

With the elimination of the ST-136A, an organization that is located out of state has several options to avail itself of a legitimate exemption from the sales tax.

Form ST-104 is the form to be used by farmers purchasing tangible personal property to be used in direct production of agricultural products for sale. This form is to be used for a single purchase made at an Indiana merchant's location.

Form ST-106 is the form that is kept on record by the seller and is used by a person engaged in agriculture. This form is a blanket exemption certificate and is good for all exempt purchases made at a single location. The person engaged in agriculture can have the ST-106 on file at various locations if they make exempt purchases from several different sellers.

Form ST-105 is the general sales tax exemption certificate and is **NOT** to be used by a person engaged in agriculture, and is not valid for personal purchases. Only a person who has registered with the Department can use the ST-105 to purchase items exempt from the sales tax. Retailers, wholesalers or manufacturers can use the exemption certificate, if the item is purchased for resale. The certificate can be used for the purchase of manufacturing machinery, tools and equipment if the products are used directly in direct production. Nonprofit organizations can make exempt purchases using the ST-105, but the organization should be aware that many items are subject to sales tax even if they are purchased by a not-for-profit organization. For further information, please refer to Sales Tax Information Bulletin #10. Government units can make purchases exempt from the sales tax and are also required to complete an ST-105 when making purchases.

IV. REGISTRATION REQUIREMENTS OF THE DEPARTMENT

Persons desiring to make exempt purchases must register with the Department as a retail merchant by completing Form BT-1. This registration will provide the person or entity with a Taxpayer Identification Number (TID), which is required to make purchases exempt from the sales tax. Out of state persons can register with the Department and obtain a TID in order to make qualifying exempt purchases.

Registration can be accomplished through the Department's web site at www.in.gov/dor or by contacting one of the district offices throughout the state.



Kenneth L. Miller
Commissioner