

# Standard Municipal Home Rule Affidavit of Exempt Sale

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**CITY OF LAKEWOOD**

**MAY 2016**

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This training deck is specific to the City of Lakewood.  
Other municipalities may have differing guidelines.

# Affidavit of Exempt Sale

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## Purpose:

**This form was created to streamline the purchase process by providing a framework from which retailers can quickly verify that a purchase qualifies for an exemption of sales tax.**

### TRAINING VIDEO

A training video is available by searching for “exemption affidavit” on Lakewood.org. Select the “Forms” tab on the search results.

# Users of the Affidavit

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**The Affidavit is to be used for each purchasing transaction by the following entities:**

- **Resale/wholesale**
- **Charitable**
- **Government (federal, state, or local)**
- **Foreign and diplomat**
- **Construction permit holders**

# General Instructions

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# General Instructions

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Any (Colorado) jurisdiction's form can be used when making a purchase (regardless of the logo at the top); however qualifications for exemption may vary. Refer to the lower right quadrant on the back of the form for additional information.

## City of Lakewood:

- [http://www.lakewood.org/Finance/Taxes and Public Improvement Fees/Doing Business/Nonprofit/Exempt Organizations.aspx](http://www.lakewood.org/Finance/Taxes_and_Public_Improvement_Fees/Doing_Business/Nonprofit/Exempt_Organizations.aspx) Click on the Standard Exemption Affidavit link found in the lower right corner under Forms.

## Other jurisdictions:

- Refer to the website of the jurisdiction or contact the tax department directly

For purchases exempt from both state and local tax, only one form needs to be completed. Appropriate documentation must be provided.

# General Instructions

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- **The completed affidavit form should be furnished by the purchaser.**
  - The purchaser must fill out the form and present it to the seller.
  - By signing the affidavit, the purchaser is swearing, under penalty of perjury, to the accuracy of the statements on the affidavit.
  - The seller must verify the information and complete the lower portion of the form.
- **Affidavits are intended to be single-use.**
  - Organizations or agencies may wish to partially populate the form and keep it on file to expedite the completion process.
  - Some jurisdictions may allow sellers to keep a “blanket” affidavit on file for frequent purchasers.

**Retailers may require a second document to be completed, as required by their corporate headquarters.**

# General Instructions

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- Purchases must be billed to and paid directly by the funds of the organization or agency in order to qualify for exemption.
- Purchases will not qualify for tax exemption under the following circumstances:
  - Payment in cash (without a purchase order) or by personal check or personal credit card
  - Purchases made on credit cards issued by the organization, but where the cardholder receives and pays the bill and is subsequently reimbursed
  - The organization or agency receives reimbursement, in whole or in part (i.e. the purchase of food for a banquet for which the organization sells tickets as a fundraiser.)

# General Instructions

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- **Disputed tax - Tax exemption is at the discretion of the seller. In the event there is a dispute:**
  - The seller must collect the tax.
  - The seller must give the purchaser a receipt showing the tax collected.
  - The purchaser may contact the applicable municipality directly to get information regarding refund claims. Note that in some jurisdictions, there may be a time limitation for requests (i.e. 60 days, 3 years, etc.).

# Reseller/Wholesaler

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# Reseller/Wholesaler

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- **When should the Affidavit be used?**
  - Resellers/wholesalers can only use the Affidavit to purchase items that will be sold in the ordinary course of business.
  - The seller will ultimately make the determination on exemption.
  - For example, if a wholesaler of a party supplies store presents an affidavit to purchase 10 flat screen televisions, the seller should deny the tax exemption request as televisions are not a product that would be resold in the ordinary course of business.
- **What documentation is recommended for the purchaser to provide at the time of the transaction?**
  - A copy of their business or sales tax license (does not need to be located in Lakewood)
  - A completed “Home Rule Affidavit of Exempt Sale”

# Charitable / Other Exempt Organizations

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# Charitable / Other Exempt Organizations

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- **When should the Affidavit be used?**
  - Exempt organizations can only use the affidavit to purchase items that will be used in the ordinary course of business.
  - The Affidavit should be used when making tax exempt purchases in:
    - ✦ **Lakewood** - Affidavits should be used by charitable organizations with a valid, Lakewood-issued Certificate of Exemption.
      - Application forms to request a Certificate of Exemption can be found at: [http://www.lakewood.org/Finance/Taxes\\_and\\_Public\\_Improvement\\_Fees/Doing\\_Business/Nonprofit/Exempt\\_Organizations.aspx](http://www.lakewood.org/Finance/Taxes_and_Public_Improvement_Fees/Doing_Business/Nonprofit/Exempt_Organizations.aspx). Click on the Application for Certificate of Exemption link found in the lower right corner under Forms.
      - Certificate of Exemptions issued by the City of Lakewood are valid for 5 years and must be renewed.
    - ✦ **Other municipalities** - Consult with the tax department of the jurisdiction where the purchase will take place or refer to the Affidavit for that jurisdiction (lower right quadrant on the back of the form).

# Charitable / Other Exempt Organizations

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- **What documentation is recommended for the purchaser to provide at the time of the transaction?**
  - A copy of their Lakewood-issued Certificate of Exemption
  - A completed “Home Rule Affidavit of Exempt Sale”
- **Do schools need to provide a Lakewood-issued Certificate of Exemption?**
  - Government affiliated schools are statutorily exempt and should provide a State-issued Certificate of Exemption for that specific school or the governing branch (i.e. Jefferson County Schools) . All non-government schools would need to apply for the Certificate of Exemption from the City of Lakewood. Only non-profit schools will be considered for tax exemption.
- **Do churches need to provide a Lakewood-issued Certificate of Exemption?**
  - Yes, churches must provide a Lakewood-issued Certificate of Exemption.

# Charitable / Other Exempt Organizations

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- **Can a contractor make tax exempt purchases when doing work for a charitable organization?**
  - Upon application review and approval, the City of Lakewood (Finance Department) provides an exemption letter to contractors or subcontractors to purchase construction materials for use in the building, erection, alteration, or repair of structures, highways, roads, streets, and other public works owned or used by charitable organizations in the conduct of their regular charitable functions and activities.
  - The contractor should contact the City to determine if permits are required.
  - It is highly recommended that the seller retain a copy of the letter along with this completed affidavit.

# Charitable / Other Exempt Organizations

## Acceptable Forms of Payment

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**How must the Charitable or Exempt organization pay for the purchase?**

- **Purchases must be billed to and paid directly by the funds of the organization or agency in order to qualify for exemption.**
- **Acceptable forms of payment include:**
  - Cash accompanied by a purchase order from the organization
  - Check drawn on funds of the exempt organization
  - Purchasing card bearing information of the exempt organization
  - Commercial credit card

# Government

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# Government

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- **When should the Affidavit be used?**
  - The Affidavit should be used by federal, state, and local government entities, who are statutorily tax exempt.
- **What documentation is recommended for the purchaser to provide at the time of the transaction?**
  - A copy of their State-issued Certificate of Exemption
  - A completed “Home Rule Affidavit of Exempt Sale”
- **What are acceptable forms of payment by the Federal Government?**  
*(Note that some GSA cards are travel expense restricted and should not be used for those purposes).*
  - GSA SmartPay2 card – fleet card with picture of a road and flag
  - GSA SmartPay2 card – purchase card with picture of a keyboard and flag
  - GSA SmartPay2 card – travel card with picture of an airplane and flag
  - GSA SmartPay2 card – integrated card with picture of an eagle and flag
  - Department of Interior agency issued card

# Government – continued

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- **What are acceptable forms of payment by the State/Local Government?**
  - Cash accompanied by a purchase order issued by the government agency
  - Check issued by and drawn on funds from the government agency
  - Government purchase card as designated on the card
- **Card should state “for official state use only” or “tax exempt”**

# Foreign and Diplomat

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# Foreign and Diplomat Exemptions

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- **When should the Affidavit be used?**
  - The Affidavit should be used for any foreign or diplomat purchase.
- **What documentation is recommended for the purchaser to provide at the time of the transaction?**
  - State department issued card with the name/photo of the bearer on the card.
  - A completed “Home Rule Affidavit of Exempt Sale”
- **What are acceptable forms of payment?**
  - If the purchaser presents the state department issued card with their name/photo on it, documentation of form of payment is not required (excluding mission card).

# Retailer

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# Retailer

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- **Verify that appropriate documentation has been presented along with the “Home Rule Affidavit of Exempt Sale” form**
  - **Reseller/Wholesaler**
    - ✦ A copy of their business or sales tax license (does not need to be located in Lakewood)
  - **Charitable Org**
    - ✦ A copy of their Lakewood-issued Certificate of Exemption
  - **Government**
    - ✦ A copy of their State-issued Certificate of Exemption
  - **Foreign and Diplomat**
    - ✦ A state department issued card with the name/photo of the bearer on the card
  - **Construction permit holder**
    - ✦ A copy of a valid permit issued by the City of Lakewood or another municipality where a local use tax has been paid

**It is highly recommended that sellers retain all documentation on file.**

# Retailer

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- Verify that information presented on the Affidavit form is consistent with what is shown on the supporting documentation (refer to previous slide).
- Verify that the items purchased are to be utilized in the ordinary course of business by the purchaser.
- Verify that the person making the purchase on behalf of the exempt organization is the one who completed the declaration.
- Ensure that the appropriate form of payment is used (refer to the Affidavit or slides in this deck).
- Exempt only the tax for which documentation has been provided. For example, if a charitable organization only has a Certificate of Exemption from the State, local tax should still be assessed.

**Sellers have the burden of proving that a transaction was properly exempted.**

# Retailer

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- For purchases exempt from both state and local tax, only one Affidavit form needs to be completed. Appropriate documentation must be provided.
- While the Affidavit has been designed to capture all relevant information of the exempt transactions, a second document may be required by the retailer's corporate headquarters.
- In the event that the purchaser does not have the appropriate documentation, the retailer should assess tax on the transaction and suggest that the purchaser follow-up with the tax department of the local jurisdiction. (Refer to slide #9).

# Other Guidance

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# Other Guidance

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- Use of the affidavit form does not provide a safe-harbor.
- Purchasers and sellers should be aware of State and local guidelines regarding exempt sales based on the location of the transaction (i.e. not necessarily the exempt organization's/agency's physical location).
- Incomplete or illegible forms will not be accepted.

# Further Questions?

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- Questions can be directed to:
  - ✦ Erin Nordmann  
Revenue Manager, City of Lakewood  
[erinor@lakewood.org](mailto:erinor@lakewood.org)  
(303) 987-7631