



The “Buy Connecticut” Provision

Purpose: This Special Notice describes the “Buy Connecticut” provision, Conn. Gen. Stat. §12-408c. This provision allows certain purchasers to request refunds of sales and use taxes paid on tangible personal property that is purchased from Connecticut retailers and is eventually shipped out of Connecticut for exclusive use outside Connecticut. It also allows the Commissioner of Revenue Services to issue permits that enable qualified purchasers to purchase such property without payment of the sales and use taxes otherwise imposed by Chapter 219 of the general statutes.

Conn. Gen. Stat. §12-408c was amended by 2000 Conn. Pub. Acts 174, §63 to revise the application requirements to obtain a “Buy Connecticut” permit, as described in “Permit Application Process” below.

Effective Date: Effective on July 1, 2000.

Statutory Authority: Conn. Gen. Stat. §12-408c as amended by 2000 Conn. Pub. Acts 174, §63.

The Refund Portion of the “Buy Connecticut” Provision: Conn. Gen. Stat. §12-408c(a)(1) allows taxpayers purchasing tangible personal property from Connecticut retailers to request refunds of sales and use taxes paid, where the purchaser eventually ships the property out of Connecticut for exclusive use by the purchaser outside Connecticut. Under this provision, tangible personal property purchased from Connecticut retailers may be either stored in Connecticut and subsequently shipped out of Connecticut, or “processed, fabricated or manufactured into, attached to or incorporated into, other tangible personal property” that is subsequently shipped outside Connecticut.

The “Buy Connecticut” provision imposes certain restrictions and requirements that taxpayers must satisfy in order to file claims for refund. These restrictions and requirements are explained below.

Tangible Personal Property for Use in a Trade, Occupation, Business, or Profession: Conn. Gen. Stat. §12-408c applies to “any person carrying on a trade, occupation, business or profession” in Connecticut who “purchases from a retailer tangible personal property for use or consumption in carrying on such trade, occupation, business or profession.” From its language, it is clear that the provision applies only to businesses, and not to individuals other than sole proprietors of businesses or single-member limited liability companies.

Transportation of Tangible Personal Property by Common or Contract Carrier: To obtain refunds of use tax paid, a taxpayer must purchase tangible personal property from a Connecticut retailer for “use or consumption” in its “trade, occupation, business or profession” and must eventually ship the property outside of Connecticut by “common or contract carrier.” Taxpayers are not allowed to transport tangible personal property purchased under this provision out of Connecticut in their own vehicles or in vehicles owned by the retailers of the property.

A *common carrier* is “[a]ny carrier required by law to convey . . . freight without refusal if the approved fare or charge is paid” *Black’s Law Dictionary* 275 (6th ed. 1990). A *contract carrier* is a “transportation company that carries, for pay, the goods of certain customers only as contrasted to a common carrier that carries the goods of the public in general.” *Black’s Law Dictionary*, at 325.

Permissible Uses of Tangible Personal Property in Connecticut Prior to Shipment Outside the State: There are two permissible uses of tangible personal property in Connecticut before the property is shipped outside Connecticut.

Storage: Conn. Gen. Stat. §12-408c(a)(1)(A) provides that any business that purchases tangible personal property from a Connecticut retailer for “use or consumption” in carrying on its business and that “subsequently” ships the property out of Connecticut by common or contract carrier may file a claim for refund. This section allows for the temporary storage in Connecticut of tangible personal property purchased from Connecticut retailers before it is shipped out of Connecticut. The business must own the property at the time it is shipped outside Connecticut, and must use the property exclusively outside Connecticut after shipment, for as long as it owns the property. Conn. Gen. Stat. §12-408c(a)(1)(A) does not specify how long the property may be stored in Connecticut before being shipped out of Connecticut. The Department of Revenue Services (DRS) has determined that the property may be stored in Connecticut for up to three years from the date it is purchased.

Processing, Fabrication, Manufacturing, or Incorporation Into Other Tangible Personal Property: Under Conn. Gen. Stat. §12-408c(a)(1)(B), any business that purchases tangible personal property from a Connecticut retailer “for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside this state by common or contract carrier” may be eligible to file a claim for refund.

Upon completion of the processing, fabrication, manufacturing, or incorporation of tangible personal property, the property must be shipped out of Connecticut. The business must own the property at the time it is shipped outside Connecticut, and must use the property exclusively outside Connecticut after shipment, for as long as it owns the property. DRS has determined that the property **must** be shipped out of Connecticut within three years from the date of purchase.

Any use of tangible personal property in Connecticut for which a sales and use tax refund has been issued **prior** to its shipment out of Connecticut, other than storage, or use in the course of being processed, fabricated, manufactured, or incorporated into other tangible personal property, subjects the property to use tax on its purchase price as of the date of the use. Likewise, any use of tangible personal property by the purchaser in Connecticut **after** its initial shipment out of Connecticut subjects the property to use tax as of the date of the use.

Furthermore, if tangible personal property purchased under the “Buy Connecticut” provision remains in

Connecticut beyond three years from the date it is purchased and a refund has been issued, the business that purchased the property becomes liable for use tax on the purchase price of the property as of three years after the purchase date.

Refund Procedures: Subdivision (a)(1) of Conn. Gen. Stat. §12-408c provides that all claims for refund of taxes paid on tangible personal property purchased under the “Buy Connecticut” provision during a calendar year **must** be filed by **April 1** of the next calendar year. (If April 1 is a Saturday, Sunday, or legal holiday, the refund claim must be filed by the next succeeding day that is not a Saturday, Sunday, or legal holiday.)

Under Conn. Gen. Stat. §12-425, the general sales and use tax refund provision, taxpayers have three years after the due date of sales or use taxes to file a claim for refund of the taxes. However, Conn. Gen. Stat. §12-425 **does not apply** to the “Buy Connecticut” provision. Therefore, it is important to note that the period to file a claim for refund under Conn. Gen. Stat. §12-408c is significantly shorter than the period allowed under Conn. Gen. Stat. §12-425.

All refund claims must be filed on **Form AU-526, Sales and Use Tax Refund Application for Purchases Made Under the “Buy Connecticut” Provision**, and must be accompanied by substantiating documentation. If the tangible personal property for which a refund is being sought was shipped out of Connecticut prior to filing a refund claim, a taxpayer must submit copies of the shipping documents with **Form AU-526**. If the tangible personal property has not yet been shipped out of Connecticut when the refund claim is filed, the taxpayer must attest on **Form AU-526** that the property will be shipped out of Connecticut within three years from the date of its purchase. DRS requires that taxpayers retain records substantiating refund claims, including but not limited to proof that tax was paid and shipping documents, for six years from the date on which the claims were filed.

The Commissioner will determine the validity of a refund claim within 90 days of receiving a completed **Form AU-526** with all required documentation attached. If the Commissioner determines that a claim is not valid, either in whole or in part, the Commissioner will send the taxpayer a notice of proposed disallowance.

Procedures to Protest a Notice of Proposed Disallowance: If the taxpayer does not agree with a proposed disallowance of its refund request, the taxpayer may file a written protest stating the grounds on which the protest is based. The taxpayer must file the protest with the Commissioner within 60 days of the mailing of the proposed disallowance. If no protest is filed within 60 days, a notice of proposed disallowance constitutes a final disallowance. If a protest is timely filed, the Commissioner will reconsider the proposed disallowance and, if the taxpayer has so requested, may grant or deny the taxpayer an oral hearing.

After reconsidering a refund claim, the Commissioner will send the taxpayer a notice of determination. If the taxpayer disagrees with the Commissioner's determination, under Conn. Gen. Stat. §12-422, the taxpayer has one month from the date the determination was mailed to appeal the determination to the Superior Court. If the taxpayer fails to appeal the Commissioner's determination within one month, the determination is final.

The provisions for protest and appeal in Conn. Gen. Stat. §12-408c are the same as those in Chapter 219 of the Connecticut General Statutes.

The Exemption Permit Portion of the "Buy Connecticut" Provision: Conn. Gen. Stat. §12-408c(b)(2) allows the Commissioner, at his discretion, to issue permits to taxpayers that enable the taxpayers to purchase tangible personal property from Connecticut retailers exempt from sales and use taxes, where the property is eventually shipped out of Connecticut for exclusive use by the purchaser outside Connecticut.

As with the refund portion of the "Buy Connecticut" provision, DRS has determined that tangible personal property purchased with an exemption permit may be stored in Connecticut for up to three years from the date it is purchased. Likewise, upon completion of the processing, fabrication, manufacturing, or incorporation of the tangible personal property allowed by section (b)(2), the property **must** be transported out of Connecticut within three years from the date it is purchased. The business must own the property at the time it is transported outside Connecticut, and must use the property exclusively outside of Connecticut after it is transported, for as long as it owns the property.

The exemption permit portion of the "Buy Connecticut" provision **does not** require that tangible personal property be transported outside Connecticut by common or contract carrier. Purchasers may use their own vehicles or retailers of the property may use their vehicles.

Any use in Connecticut of tangible personal property purchased with an exemption permit, other than storage, or use in the course of being processed, fabricated, manufactured, or incorporated into other tangible personal property, subjects the purchase price of the property to use tax as of the date of the use.

Furthermore, if tangible personal property purchased with an exemption permit under the "Buy Connecticut" provision remains in Connecticut beyond three years from the date it is purchased, the business that purchased the property becomes liable for use tax on the purchase price of the property as of three years after the date it is purchased.

Permit Application Process: Any taxpayer registered to pay Connecticut sales and use taxes that wishes to obtain a permit must apply to the Commissioner of Revenue Services. All applications must be in writing and must contain the following information:

- The name of the business entity;
- Its location;
- A description of the trade, occupation, business, or profession the business entity is carrying on in Connecticut; and
- The business entity's Connecticut Tax Registration Number.

A declaration, signed under penalty of false statement, attesting to the accuracy of the information, and that the applicant is filing sales and use tax returns as required by Conn. Gen. Stat. §12-414, must accompany all information submitted with an application. (The penalty for false statement is imprisonment not to exceed five years or a fine not to exceed five thousand dollars, or both.) The declaration should also contain a statement that the applicant, if approved for a permit, agrees to comply with the provisions of Conn. Gen. Stat. §12-408c.

Taxpayers should send their permit applications to:

Commissioner of Revenue Services
"Buy Connecticut" Permit Application
25 Sigourney Street
Hartford CT 06106

Criteria for Issuing a Permit: In deciding whether to issue a permit, the Commissioner may consider an applicant's compliance history with sales and use tax and other taxing statutes, including its payment and audit histories, and the nature of the taxpayer's business. If, upon reviewing all pertinent information, the Commissioner determines that "the provisions of Chapter 219 of the general statutes will not be adversely affected," the Commissioner may issue the taxpayer an exemption permit. The Commissioner will make a determination on an application for an exemption permit within 90 days of its receipt.

If a taxpayer's application is approved, the Commissioner issues a numbered permit that entitles the taxpayer to make exempt purchases using **CERT-132, Sales and Use Tax Exemption for Purchases Made Under the "Buy Connecticut" Provision**. The permit is valid from the date it is issued through the end of the calendar year in which it was issued.

If a taxpayer's application is not approved, the Commissioner will notify the taxpayer of the disapproval in writing. A taxpayer that is not issued a permit may utilize the refund procedures outlined previously in this document.

Procedures for Purchasing Tangible Personal Property With an Exemption Permit: If approved, DRS issues a taxpayer a permit allowing the taxpayer to purchase tangible personal property from a Connecticut retailer exempt from tax under the "Buy Connecticut" provision. The taxpayer must **either** provide a copy of its exemption permit and a completed **CERT-132** to a retailer each time it makes a purchase under Conn. Gen. Stat. §12-408c or issue the retailer a *blanket certificate* for a continuing line of exempt purchases. A *blanket certificate* remains in effect from the date of the first purchase in a calendar year until the end of the calendar year, unless the taxpayer revokes it, in writing, before the period expires.

CERT-132 will contain information about the permit holder and will inform the retailer of its record keeping obligations. Acceptance in good faith of a properly completed and signed **CERT-132**, along with a copy of a taxpayer's exemption permit, relieves a retailer from the burden of proving that the sale, and the storage, use or other consumption, of the tangible personal property is not subject to sales and use taxes. Retailers are not to accept **CERT-132** without a copy of the taxpayer's permit.

Any misuse of a permit by a taxpayer will result in immediate revocation of the permit and will subject the taxpayer to other penalties as provided in the Connecticut General Statutes.

Reporting Requirements: Conn. Gen. Stat. §12-408c(b)(3)(B) requires a taxpayer that was issued an exemption permit to submit a report with each **Form OS-114, Sales and Use Tax Return**, that the taxpayer is required to file (either monthly, quarterly, or annually) under Conn. Gen. Stat. §12-414. Taxpayers that have made exempt purchases during the reporting period must complete and submit **Schedule OS-114A**.

Schedule OS-114A requires the taxpayer to list the:

- Purchases made under the "Buy Connecticut" provision;
- Dates on which the purchases were made; and
- Retailers from whom the purchases were made.

Permit Renewal Process: The taxpayer must reapply for a permit every year following the procedures in *Permit Application Procedures* on Page 4. The permit is valid from January 1 or the date it is issued (whichever is later) through the end of the calendar year in which it is issued. Allow at least a month for DRS to issue a permit after it receives an application. To ensure that the permit does not lapse, the applicant should apply for a renewal by December 1.

Application of the "Buy Connecticut" Provision to "Indian Country": "Indian country," as defined in 18 U.S.C. §1151, is considered to be outside of Connecticut for purposes of both the refund and exemption permit portions of the "Buy Connecticut" provision.

Sections Not Affected by the "Buy Connecticut" Provision: Conn. Gen. Stat. §12-408c(a)(1)(B) does not apply to tangible personal property that becomes an ingredient or component part of tangible personal property intended to be sold as a finished product by the purchaser. Such property may be purchased exempt under Conn. Gen. Stat. §12-412(18).

The "Buy Connecticut" provision also does not apply to printed material that has been manufactured in Connecticut to the special order of a purchaser and which, within thirty days following delivery to such purchaser, is to be delivered for use outside Connecticut. Such material may be purchased exempt under Conn. Gen. Stat. §12-412(31).

Effect on Other Documents: Special Notice 98(10), *The "Buy Connecticut" Provision 1997, Conn. Pub. Acts 243, §48*, is modified and superseded.

Effect of This Document: A Special Notice is a document that announces a new policy or practice in response to changes in State or federal laws or regulations or to judicial decisions. A Special Notice indicates DRS' informal interpretation of Connecticut tax law and may be referred to for general guidance by taxpayers or tax practitioners.

For Further Information: Please call DRS during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: www.drs.state.ct.us
 - **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
 - **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone.
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