

June 9, 2006

Sales and Use Tax - Housing Agency. EFFECTIVE JULY 1, 2006, PURCHASES BY A HOUSING AGENCY AS DEFINED IN SECTION 71-1575 ARE EXEMPT FROM SALES AND USE TAXES. THIS EXEMPTION APPLIES TO ALL PURCHASES EXCEPT FOR PURCHASES FOR ANY COMMERCIAL OPERATION THAT DOES NOT EXCLUSIVELY BENEFIT THE RESIDENTS OF AN AFFORDABLE HOUSING PROJECT.

Laws 2006, LB 1189, provides an exemption from sales and use tax for purchases made on or after July 1, 2006, by a housing agency as defined in Neb. Rev. Stat. Section 71-1575. This exemption does not apply to purchases for any commercial operation that does not exclusively benefit the residents of an affordable housing project. A housing agency must issue a Nebraska Resale or Exempt Sale Certificate, Form 13, to its vendors in order to purchase items tax free. As provided in Nebraska Sales and Use Tax Regulation 1-093.01, governmental units such as housing agencies are not assigned exemption numbers. Therefore, the housing agency must indicate exemption category #1 in Section B of the Form 13.

A housing agency may appoint as its agent a contractor to purchase building materials that will be annexed to property owned by the housing agency. The appointment of the contractor as its agent is completed by issuing to the contractor a Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17. The exempt status of the housing agency cannot be extended to any person or business purchasing property or services to be donated or given to the housing agency.

Sales or use tax paid in error on purchases made on and after July 1, 2006, can be refunded to the housing agency provided the amount of the refund is \$2.00 or more. To receive the refund, the housing agency must file a Claim for Overpayment of Sales and Use Tax, Form 7.

Housing agencies are still required to collect sales tax on their sales of property or services that are subject to tax.

The provisions of Sales and Use Tax Regulation 1-093.06C are superseded with the passage of LB 1189. Purchases by the other governmental units listed in Regulation 1-093.06 remain taxable. Regulations 1-012.02C and 1-093.04 are incomplete to the extent that they do not include housing agencies as exempt governmental units.

APPROVED:



Mary J. Egr Edson
State Tax Commissioner

June 9, 2006