



REV-1076 (09-05)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
BUREAU OF COMPLIANCE
CLEARANCE & COLLECTION DIVISION
ATTENTION: BUSINESS CLEARANCE SECTION
PO BOX 280947
HARRISBURG PA 17128-0947

PROCEDURES FOR SECURING A BULK SALES CLEARANCE CERTIFICATE

(Under the provisions of Fiscal Code Section 1403 and of Tax Reform Code Sections 240 and 321.1, 72 P.S. §§ 1403, 7240, and 7321.1)

The Fiscal Code's bulk sales section is the controlling section for all bulk transfers.

The PA Department of Revenue must be notified in writing 10 days prior to the transfer of 51 percent or more of any stock of goods, wares or merchandise of any kind, fixtures, machinery, equipment, buildings or real estate (i.e. a bulk transfer). The section is interpreted disjunctively with respect to each asset and applies only to assets located in Pennsylvania. The notification is the filing of the Application for Tax Clearance Certificate (REV-181). The phrase "stock of goods, wares or merchandise of any kind" is construed as the capital (i.e. the entire property of the employed in the business, including the merchandise, money, credits, accounts receivable, patents, trademarks, etc).

All taxpayers subject to Sales and Use Tax or Employer Withholding Tax and all corporations, joint-stock associations, limited partnerships or companies (including limited liability companies, partnerships, sole proprietorships) subject to any of the taxes administered and enforced by the Department, are required to notify the Department of a bulk transfer. Further, these parties are required to present to the purchaser/transferee a Bulk Sales Clearance Certificate as evidence that all tax returns/reports have been filed and all taxes due the Commonwealth have been paid up to and including the date of the transfer.

The purpose of this section is to protect the Commonwealth as well as the purchaser/transferee. The purchaser/transferee is only protected when it secures a Bulk Sales/Clearance Certificate from the seller/transferor. The failure of the purchaser/transferee to obtain the Bulk Sales/Clearance Certificate makes the purchaser/transferee liable for all unpaid taxes owing by the seller/transferor up to and including the date of the transfer whether or not the taxes have been settled, assessed or determined at that time.

The bulk transfer section does not apply to transfers made under any order of court or transfers made by assignees for the benefit of creditors, executors, administrators, receivers, any public officer in his official capacity or any officer of a court when the Department is a party to the proceedings and transfers or has received adequate notice of such proceedings and transfers.

The bulk sale section also applies to all transfers made at auction, whether in one or more sales at an auction, of a total of 51 percent or more of the previously enumerated property. The 10 day notice is required of an auction sale prior to the completion of the transfer of the property.

The previously enumerated parties also are required to notify the Department of a bulk transfer made at auction. Further, these parties are required to present to the person conducting the auction a Bulk Sales Clearance Certificate which evidences that they have filed all tax returns/reports and paid all taxes due the Commonwealth up to and including the date of the transfer.

The person conducting the auction sale is required to obtain a Bulk Sales/Clearance Certificate prior to the distribution of any funds realized from the auction sale. However, the person conducting the auction sale is allowed to distribute the funds to the Department.

To obtain a Bulk Sales Clearance Certificate, the seller/transferor must:

- Complete and file all tax reports/returns and pay all taxes (including interest, penalties, fees, charges and other liabilities) due to the Commonwealth up to and including the date of transfer/sale.
- Since bulk sales rarely coincide with tax reporting requirements for corporation tax purposes, a short-period estimated tax report through the date of transfer/sale is acceptable for clearance purposes. This report must be supported by an income statement and balance sheet as well as a detailed schedule reflecting the gain or loss from the sale or exchange of tangible capital assets. The resulting settlement of the short period report will subsequently be stricken upon settlement of the annual return declaring actual tax obligations.
- Complete the Application for Tax Clearance (Form REV-181), make two copies of the application before signing it. Then sign two copies with original signatures. File one copy with the PA Department of Revenue at the above address and send the other copy to:

PA DEPARTMENT OF LABOR AND INDUSTRY
BUREAU OF EMPLOYER TAX OPERATIONS, CLEARANCE UNIT
LABOR AND INDUSTRY BUILDING, ROOM 916
7TH AND FORSTER STREETS
HARRISBURG PA 17121

- The application should set forth the date of the sale. A copy of the agreement of sale is to be included with the application and if the transfer concerns real estate, include a copy of the proposed settlement statement.

THE BULK SALE CLEARANCE CERTIFICATE WILL BE ISSUED ONLY AFTER ALL THE REQUIRED TAX REPORTS/RETURNS HAVE BEEN FILED AND ALL THE TAXES HAVE BEEN PAID.