

# M2K - USA Sales Tax Series

## Sales tax exemptions

*ALERT #3*



# Foreword

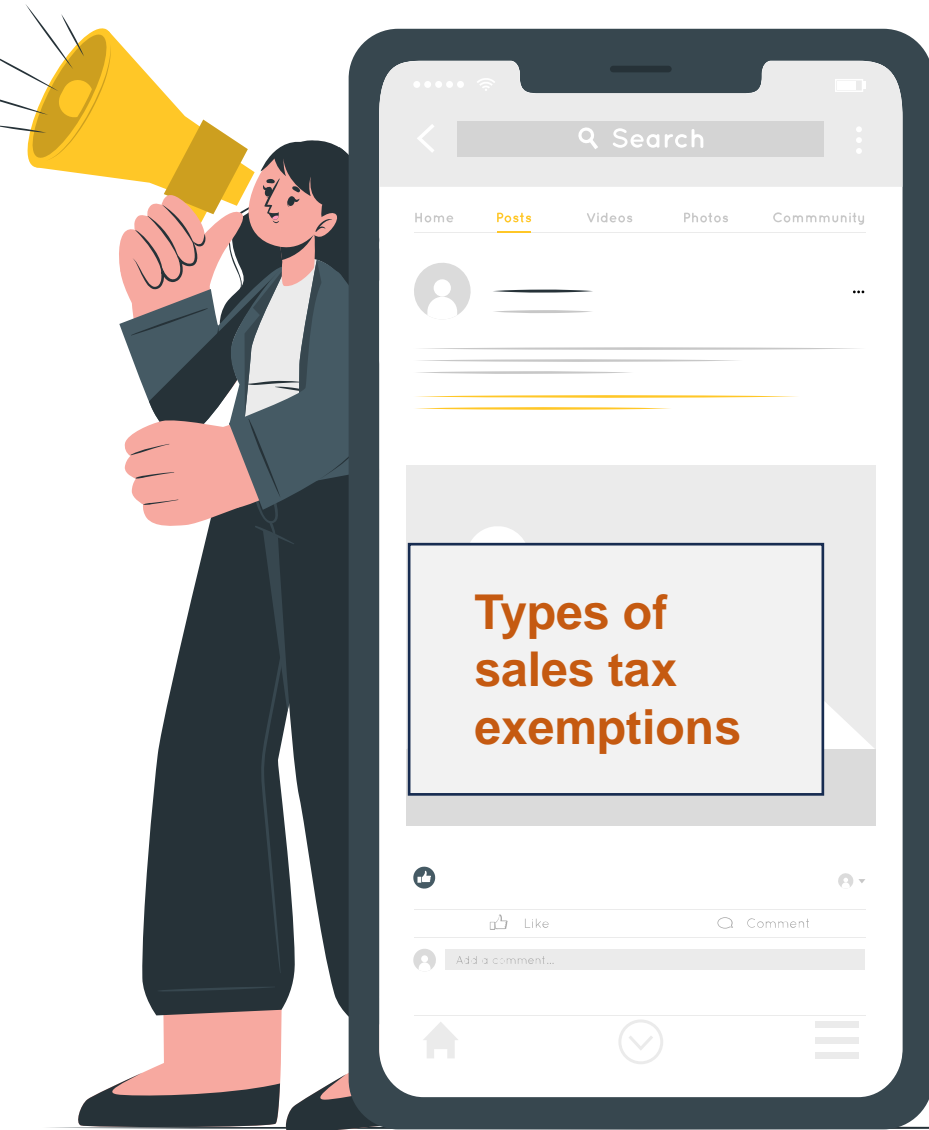
Sales and Use tax compliance is a major challenge for businesses operating in the United States. Unlike many countries with a single national sales tax, US sales tax being a local levy, there are **thousands of taxing jurisdictions**. This means businesses must navigate a maze of different tax rates, taxability rules, filing schedules, and exemption requirements just to sell the same product in different states.

The complexity doesn't stop there. The **2018 Supreme Court Wayfair decision** changed the game by requiring businesses to collect and remit sales tax even if they have no physical presence in the state. Now, simply exceeding a certain number of sales or revenue in a state can trigger a tax obligation, making it even harder for remote sellers and online businesses to keep up. States have moved quickly to enforce these "economic nexus" rules, and the risk of audits and penalties for non-compliance is higher than ever. Further, certain states levy sales tax on enumerated services, which is unknown to many businesses operating in the United States.

**M2K's US Sales Tax Series** is designed to educate the readers/ businesses & simplify the complexities. In the series, we will explain how sales and use taxes work, when should you get registration, what are the compliances that would apply, etc.



# Types of sales tax exemptions



Sales tax exemptions are exceptions to the general rule that sale of tangible personal property and certain services are taxable.

Each state has its own provisions in relation to exemptions. However, the exemptions can be broadly categorized as follows:

- Resale Exemption
- Entity-Based Exemptions
- Use-Based Exemptions
- Transaction-Based Exemptions

# Resale exemption

## Resale Intent

A resale **exemption** applies when a business purchases goods **with the intent to resell** the goods in the regular course of business.

## Single Taxation

The purpose behind the resale exemption is **to avoid multiple level taxation** by taxing only at the last leg involving the ultimate consumer

## Certification

When resale exemption applies, the buyer must **provide a resale certificate** to the seller, and the seller must **retain a record** of such certificate received for future audit purposes.

## Required Details

Details such as name, address of the buyer, buyer's registration number, description of the property, declaration statement that the property is being purchased for resale are required to be mentioned on the certificate.

## Certificate Issuance

These are **generally self-issued** by the buyer using forms specified by state tax authorities. To issue a resale certificate, the buyer must typically **obtain a sales tax permit**.

## Seller Registration

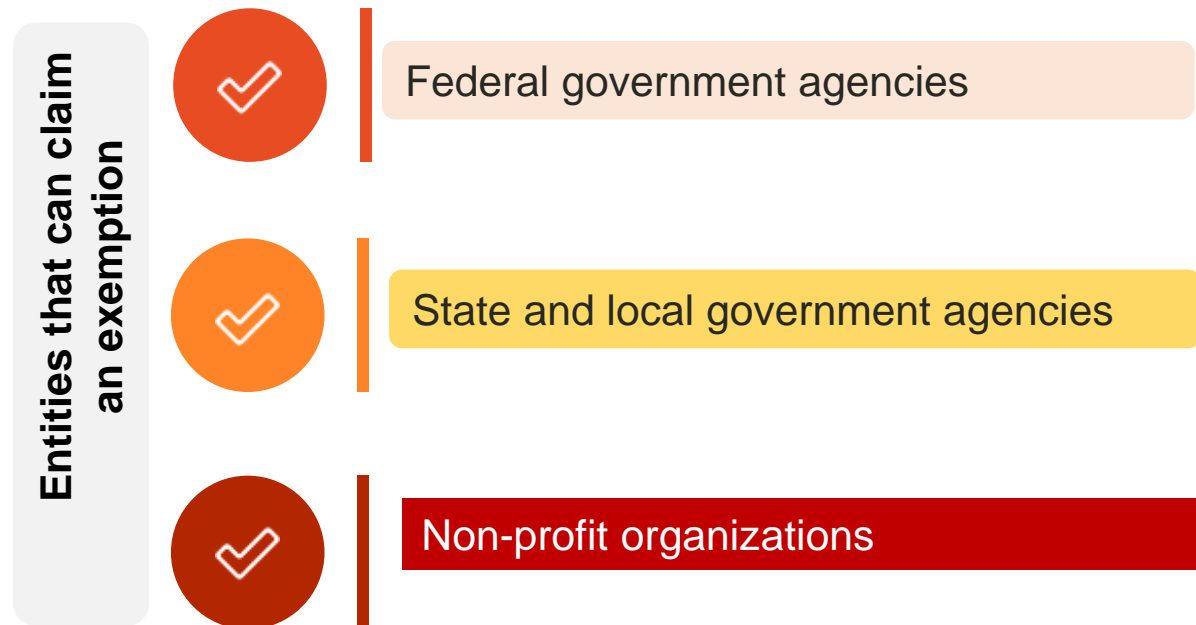
In certain states (such as New York), the seller must also be registered **to accept a resale certificate**.

## Validity Period

In certain states, resale certificates are valid only for a specified period and **would have to be renewed on a periodic basis**.

# Entity-Based exemptions

In certain states, there are entity-based exemptions i.e., exemption based on the type of organization making the purchase. While the type of entities differs from state to state, some examples of entities that can claim an exemption are provided below:



To claim an exemption, the qualifying organization must provide the seller with a valid exemption certificate at the time of purchase.



# Use-Based exemptions

The examples of certain use-based exemptions are as follows:

A

## Manufacturing & processing exemption

Many states offer exemptions on equipment, raw materials and utilities used directly in manufacturing or processing.

B

## Agricultural exemptions

Items used in farming and agricultural production (seeds, fertilizers, equipment etc.) may be exempt if used for production of food or agricultural products.

C

## Research and development

Some states provide exemption for materials and equipment used in qualified research and development activities.

D

## Pollution Control and Community Benefit:

Equipment used for pollution control may also be exempt in certain states.



# Transaction-Based exemptions



- ❖ Sales or use tax may not apply to **casual or isolated or occasional sales** of tangible personal property or service made by a person who is not engaged in selling such property or service in the normal course of business.
- ❖ Sales or use tax may also not apply to bulk sale transactions i.e., when a **business sells all or a substantial portion of its business assets**, often outside the ordinary course of business. This typically happens when a business is sold, liquidated, or reorganized.

# Stay tuned for more updates on Sales & Use Tax

Please find below the list of alerts proposed to be released in the series (every Tuesday & Thursday).

## General overview

1. **Introduction to sales & use tax**
2. **Situs of sale**
3. Sales tax exemptions
4. Determining nexus
5. Registration & compliances
6. Voluntary disclosure agreement
7. Sales tax on software & SAAS

## State wise overview

- |                |                    |                    |
|----------------|--------------------|--------------------|
| 1. Delaware    | 18. Kansas         | 35. North Dakota   |
| 2. New Jersey  | 19. Kentucky       | 36. Ohio           |
| 3. California  | 20. Louisiana      | 37. Oklahoma       |
| 4. Alabama     | 21. Maine          | 38. Oregon         |
| 5. Alaska      | 22. Maryland       | 39. Pennsylvania   |
| 6. Arizona     | 23. Massachusetts  | 40. Rhode Island   |
| 7. Arkansas    | 24. Michigan       | 41. South Carolina |
| 8. Colorado    | 25. Minnesota      | 42. South Dakota   |
| 9. Connecticut | 26. Mississippi    | 43. Tennessee      |
| 10. Columbia   | 27. Missouri       | 44. Texas          |
| 11. Florida    | 28. Montana        | 45. Utah           |
| 12. Georgia    | 29. Nebraska       | 46. Vermont        |
| 13. Hawaii     | 30. Nevada         | 47. Virginia       |
| 14. Idaho      | 31. New Hampshire  | 48. Washington     |
| 15. Illinois   | 32. New Mexico     | 49. West Virginia  |
| 16. Indiana    | 33. New York       | 50. Wisconsin      |
| 17. Iowa       | 34. North Carolina | 51. Wyoming        |

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# Thank You



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