



## **Computer Data Center Equipment Exemption Program Frequently Asked Questions**

- 1. Are utilities exempt from Sales/Use tax, under the Computer Data Center Equipment Exemption Program?**
  - No, the certificate of exemption may not be used to exempt Sales/Use tax from utilities in the certified data center.
  
- 2. Can someone other than an owner, operator or qualified tenant use the certificate of exemption on behalf of an owner, operator or qualified tenant holding the exemption?**
  - No, the certificate of exemption may not be used on behalf of an owner, operator or qualified tenant. Only an owner, operator or qualified tenant may use the certificate of exemption.
  
- 3. Is the exemption valid against Sales/Use Tax charged for labor or maintenance?**
  - No, the certificate of exemption may not be used to exempt Sales/Use tax from labor or maintenance within the certified data center. Only the equipment installed within the data center would be exempt.
  
- 4. Is the exemption valid against Sales/Use Tax on offsite storage?**
  - No, the certificate of exemption may not be used to exempt Sales/Use tax from offsite storage. The exemption is only valid for use on data center equipment located within the certified data center.
  
- 5. Is the exemption valid against Sales/Use Tax for tools?**
  - No, the certificate of exemption may not be used to exempt Sales/Use tax from tools.
  
- 6. Can a vendor reject a certificate of exemption presented to them and charge sales tax on the transaction?**
  - Yes, the vendor can elect to collect and remit the sales tax from the holder of the exemption.
  - The entity holding the exemption would be required to submit payment to the vendor and petition for refund to the PA Board of Appeals.
  
- 7. If computer data center equipment is purchased, prior to the effective date of the exemption, is the computer data center equipment exempt from Sales/Use tax?**
  - No, the certificate of exemption contains an effective date and an expiration date. Computer data center equipment purchased outside the effective date or expiration date are not exempt from Sales/Use tax.

**8. Is the exemption valid against Sales/Use tax charged on gifts, food, uniforms, or related items purchased on behalf of staff within the certified data center?**

- No, the certificate of exemption may not be used for exemption of Sales/Use tax on gifts, food, uniforms, or related items purchased on behalf of staff within the certified data center. The exemption is only valid for use on data center equipment located within the certified data center.

**9. Is the exemption valid against local sales taxes paid on the data center equipment?**

- No, the certificate of exemption is not valid against local sales tax paid on the data center equipment. The exemption is only applicable against the State Sales Tax rate of 6%. The owner, operator or qualified tenant must remit the appropriate use tax for purchases made in a taxable county (1% local tax for purchases made in Allegheny County and 2% local tax for purchases made in Philadelphia County).

**10. In the case of a company having multiple data centers, would each data center be required to obtain certification or would all data centers be viewed as a whole?**

- Each datacenter must be certified by the Department of Revenue and meet the eligibility requirements individually.

**11. Could you please define what a “Computer data center” is?**

- Please refer to the program guidelines for additional information, exclusions, and eligibility requirements.

**12. During the construction of the data center building, can the data center (assuming qualified) purchase materials used in the construction of the data center building and provide the data center exemption to the retailer who sold the property? In this scenario, the data center would separately contract with a contractor to install the property and construct the data center using the purchased materials.**

- The exemption certificate cannot be used for construction of the data center facility, unless specifically listed within the definition of Computer Data Center Equipment.

**a. Would this be applicable for the cement used in the foundation of the building/transformers used?**

- No to the cement in the foundation of the building.
- Yes to the transformers; all equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer servers or similar data storage equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.
- No to the transformers, if the transformers are used to generate electricity for resale, they would not be exempt.

- b. Would this be applicable for the conduit, wiring, and panels necessary for the data center?**
  - Yes, all equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer servers or similar data storage equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.
  
- c. Would this be applicable for drywall, siding, lumber, etc. used in the building of the data center?**
  - No.
  
- d. Would this be applicable for HVAC?**
  - Yes, all equipment necessary to cool and maintain a controlled environment for the operation of the computer servers or data storage systems and other components of the computer data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters.
  
- e. Would this be applicable for materials used in admin areas of the building or would an allocation be needed for the admin vs. data center spaces?**
  - No.

**13. Do you have any additional guidance to define “other tangible personal property that is essential to the operations of a computer data center” as laid out in the *Permitted Utilization of the Exemption* to include? Is there a general test to apply to determine if the property can qualify?**

- Under the Computer data center incentive program, which preempted the computer data center exemption program, other tangible personal property that is essential to the operations of a computer data center were considered items like surge protectors, software support, parts from repairs, HVAC filters, Cartridge Labels, locks, equipment harnesses, card readers, power plugs.

**14. If the data center has more than one location which they operate the data center, a. The Eligibility section outlines that a “separate application” is required for separate locations, however does each location need to separately meet the spend and employee/employment requirement?**

- Each data center must submit a separate application and meet all criteria for eligibility and certification.

**b. And annually the operator must submit separate application for exemption for each location.**

- Yes

**c. Is “multiple locations” defined based on the legal mailing address of the location? What is the position if there are two identical data centers on a single piece of property and each share a mailing address?**

- If you have a specific situation, the Department can then review the facts and see if a separate application is needed. The identification of the taxpayer and all pertinent details will be required at the time of the review.

**15. For the construction of these data centers, the Company often has to sign contracts and potentially make down payments in advance of 1/1/2022 for various equipment, including servers used in the data center. Based on the data center exemption, it appears that this spend would not otherwise qualify for the exemption and would not count toward the required spending requirement.**

- Is this accurate, even if the payment prior to 1/1/2022 was only a down-payment and did not include the delivery of the property until after 1/1/2022**
- In the exemption, the state outlines the following:**

***“Beginning January 1, 2022, computer data center equipment is exempt from Pennsylvania sales and use tax when it is sold to, used or consumed in a certified data center...”***

**If the property mentioned above is not used or consumed in the data center prior to 1/1/2022, but is paid for in advance, can that property also qualify for the data center exemption.**

- No, the exemption is not effective until after January 1, 2022.

**16. Who can I contact with questions pertaining to the program or for guidance on the use of the exemption?**

- For additional information on the Computer Data Center Equipment Exemption Program, contact the Office of Economic Development at 717-772-3896 or [ra-rveconomic-dev@pa.gov](mailto:ra-rveconomic-dev@pa.gov)

**17. What is the qualification period for an owner or operator of a certified computer data center?**

- The qualification period is 25 full calendar years following the year in which the owner or operator filed the application for certification.

**18. What is the qualification period for a tenant of a certified computer data center?**

- Qualified tenants may apply for an Exemption or renewal of an exemption for a period expiring at the earlier of the expiration of the term of the occupancy agreement or the end of the 10th full calendar year following the calendar year in which the qualified tenant enters into the occupancy agreement.