

ARTICLE III – REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE

Rule 317. Administration of Exemptions

Rule 317.2. Drop Shipments

A. Definitions

1. Drop shipment sales defined. “Drop shipment sale” means a sale that occurs when a seller accepts an order from a customer and then places the order with a drop shipper, such as a manufacturer or wholesaler, and directs the drop shipper to deliver products or services, including digitally delivered products and services, which are the merchandise sold directly to the customer. (Note that many products have related services in drop ship models, such as extended warranties or maintenance in the case of software. The term “merchandise” is not defined in the agreement and could be interpreted to exclude some transactions that should fit under the drop shipment rule.

2. Drop shipper defined. A “drop shipper” is a third party, such as a manufacturer or wholesaler, with whom a seller that has accepted an order for merchandise products or services, including digitally delivered products and services, from a customer and who places the order and directs to deliver the products or services, including digitally delivered products and services, merchandise sold directly to the customer. The drop shipper may deliver the merchandise products or services, including digitally delivered products and services, in its own truck, arrange for delivery by a common or contract carrier or may facilitate the digitally delivery of products or services., or allow the customer to pick up the merchandise at the drop shipper’s location

(BAC comment, Note that allowing a customer to pick up products at the drop shippers location would be an over the counter sale and not a drop shipment and would cause confusion in terms of the over the counter sourcing rules. Are there any state statutes that would treat over the counter sales as drop shipments?:-

B. Tax liability for drop shipment sales

1. Drop shipper collects and remits tax unless resale exemption applies. A seller of products or services, including digitally delivered products and services, may issue a resale exemption certificate or other acceptable information evidencing qualification for a resale exemption to the drop shipper, even though the seller is not registered to collect sales or use tax in the state where the sale occurs. Upon receipt of the certificate or other acceptable information, the drop shipper shall not be subject to sales or use tax on the sale of products or services, including

digitally delivered products and services, that the seller directs the drop shipper to deliver to the seller's customer.

2. Seller is liable for sales tax if it has nexus or is a volunteer registrant in the state of delivery unless resale exemption applies. In a drop shipment sale transaction, the seller shall collect sales tax from its customer and remit such tax to the proper taxing authority, unless the customer has provided the seller with a resale certificate or other acceptable information evidencing qualification for resale.

3. Customer is liable for use tax if seller does not collect tax. If the seller does not collect and remit the appropriate sales tax due on a drop shipment sale, the seller's customer shall be subject to use tax unless such customer can claim a valid exemption.

Note: Refer to Rule 317.1 regarding resale exemption requirements for transactions other than drop shipments.

Source: SST Drop Shipments Issue Paper.