

AD06007

A motion by SLAC for a rule relating to drop shipments:

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 of tangible personal property 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 tangible personal property sold directly to the customer.

2. Drop shipper defined. A “drop shipper” is a third party, such as a manufacturer or wholesaler, with whom an out-of-state seller that has accepted an order for tangible personal property from a customer and who places the order and directs to deliver the tangible personal property sold directly to the customer. The drop shipper may deliver the tangible personal property in its own truck, by common or contract carrier, or over-the counter at the drop shipper’s location.

B. Tax liability for drop shipment sales

1. Drop shipper collects and remits tax unless resale exemption applies. A seller of tangible personal property 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 tangible personal property that the seller directs the drop shipper to deliver to the seller’s customer.

2. Seller collects and remits sales tax if it has nexus or is a volunteer registrant in the state of delivery, unless an 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 exemption.

3. Customer is liable for use tax if seller does not collect tax. If the out-of-state seller or drop shipper 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.

Note: This rule does not address drop shipments as they may apply to services and digital products. Whether a state allows an out-of-state seller to provide a drop shipper with a resale exemption or other acceptable information evidencing qualification for a resale exemption on the sale of services or digital products is determined by each state's law.