

A Proposed Interpretive rule regarding direct mail sourcing, Submitted by Melanie Hill

Article III – REQUIREMENTS EACH STATE MUST ACCEPT TO PARTICIPATE

**Rule 313. Direct Mail Sourcing**

**Rule 313. Use of Uniform Direct Mail Sourcing Rules**

**1. Use tax on mail from remote vendors.**

A printer, print broker, advertising agent, other service provider acting as an agent in relation to direct mail, or mailing service provider is not required to collect sales or use tax on direct mail delivered into a state when the direct mail user does not have nexus in the jurisdiction and the sale is sourced under Section 313.B.

**2. Relation to other exemptions.**

The direct mail sourcing rules do not take precedence over interstate commerce exemptions or any other state specific exemptions that would otherwise apply to the sourcing of the direct mail and its components including, printed materials, lists or mailing services.

**3. Correspondence not qualifying as direct mail.**

The sales of printed materials and mailing services distributed using addresses derived from an account data base when the recipients do not pay consideration for the printed materials are sourced under Section 313.B. Paychecks, deposit notification advices, correspondence, privacy notices, invoices, benefit statements, stockholder reports, and account statements are examples of printed material distributed using addresses derived from an account data base. A service fee for receiving printed copies in addition to electronic copies or a service fee for receiving duplicate copies is not regarded as consideration received for the receipt of the printed materials. The inclusion of advertising material in the correspondence has no bearing on the determination of whether the correspondence qualifies as direct mail.

**4. Documentation of direct mail sourcing.**

A. Access to a mailing list or account data base provided by the direct mail user or a third party to a printer or service provider for use in relation to direct mail does not constitute receiving “information to show the jurisdictions to which the direct mail is delivered.”

B. A system-generated distribution report produced at the time of mailing which can be tied to mail processing for an entry of direct mail into the mail stream constitutes a safe-

harbor method of providing evidence of the jurisdictions to which the direct mail is delivered to recipients. Reasonable allocation methods between local jurisdictions within a state based on the distribution report are acceptable for sales and use tax reporting purposes when the report does not otherwise provide specific details. The distribution report must:

1. be dated;
2. be produced concurrently or in conjunction with the direct mail processing;
3. be retained by the mailing service provider and available for audit;
4. be provided to the direct mail user upon request; and
5. summarize the direct mail distribution by state, zip code, postal carrier route or other geo code identification.

Retention of the mailing list or data base actually used in addressing direct mail is not required to establish the direct mail distribution if standard operating procedures provide for the generation and retention of a distribution report.

#### **5. Mailing lists used in direct mail distributions.**

Sales of mailing lists provided on labels, paper, computer tape, diskette, CD or other electronic storage device are sourced under Section 310. Sales of mailing lists provided or accessed electronically are sourced under Section 313.B.

#### **6. Direct Mail Form.**

If a Direct Mail Form is issued by the direct mail user or its agent and the Direct Mail Form does not specify the direct mail component to which it applies, the Direct Mail Form shall apply to all direct mail components provided and/or billed by the seller to whom the Direct Mail Form is presented.