

INFORMATION BULLETIN #57

SALES TAX

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SUBJECT: Drop Shipments

REFERENCES: IC 6-2.5-3-1; IC 6-2.5-3-2; IC 6-2.5-3-6; IC 6-2.5-3-7; IC 6-2.5-8-8

I. INTRODUCTION

Drop shipments involve the sale of goods by a seller who delivers the goods directly to the purchaser's customer. However, this is generally not a three party transaction, but two two-party transactions. The first transaction is the sale from the seller to the purchaser. The second transaction is the sale from the purchaser to the purchaser's customer. There is not a transaction between the seller and the purchaser's customer.

The general statutes and regulations governing sales and use tax apply to both transactions.

II. DISCUSSION

Indiana use tax is imposed on the storage, use or consumption of tangible personal property acquired from a retail merchant in a retail transaction. A person who acquires

tangible personal property from a retail merchant for delivery in Indiana is presumed to have acquired the property for storage, use or consumption in Indiana, unless the person or the retail merchant can produce evidence to rebut that presumption. The location of the seller and the purchaser is irrelevant to this analysis. It is the shipment of the property within or into Indiana which gives rise to the seller's obligation to collect sales or use tax.

A registered retail merchant is required to collect use tax on purchases delivered into Indiana and sales tax on purchases delivered within Indiana unless the merchant receives a valid exemption certificate from the purchaser. A person who makes a purchase in a transaction which is exempt from sales and use taxes may issue an exemption certificate to the seller instead of paying the tax.

The purchaser must issue the certificate on forms and in the manner prescribed by the Department. The following are the only persons authorized to issue exemption certificates:

1. Retail merchants, wholesalers, and manufacturers who are registered with the Department;
2. Not-for-profit organizations which are exempt from sales tax on the purchases in question; and
3. Other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

III. SALES FOR RESALE

Generally, the exemptions form prescribed by the Department for resale purposes is the Form ST-105. Only an Indiana registered retail merchant may issue an ST-105. When the purchaser is an Indiana registered retail merchant, the purchaser may issue an ST-105 to the seller and alleviate the seller's obligation to collect sales tax. Since the purchaser's customer is not a purchaser relative to the seller, the purchaser's customer cannot issue a valid exemption certificate to the seller. In addition to accepting the ST-105 exemption certificate, the purchaser may provide Form SSTGB Form F0003 (Streamlined Sales Tax Governing Board exemption certificate).

If the purchaser is not registered to collect and remit sales and use tax in Indiana, the seller may accept other information available to the seller evidencing qualification for a resale exemption.

IV. CONCLUSION

In the usual drop shipment scenario, the transaction that is subject to tax is the one between the purchaser and the purchaser's customer. Therefore, the liability for payment and collection will generally be determined by applying the sourcing rules in IC 6-2.5-13 and the general sales and use tax statutes in IC 6-2.5. The transaction between the seller and the purchaser will normally be exempt as a sale for resale if the above procedures are properly followed.

John Eckart
Commissioner

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