

A motion by South Dakota to adopt a rule defining good faith:

Uniform Standard of Good Faith

As specified in Section 317 of the Streamlined Sales and Use Tax Agreement a seller is relieved from tax liability if the seller obtains a fully completed exemption certificate or captures the relevant data elements required under the Agreement within 90 days subsequent to the date of sale.

When an exemption certificate is not obtained within 90 days as prescribed for an exempted sale, a seller has 120 days subsequent a request for substantiation by a member state to either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser. A good faith standard applies to requests of the seller within the 120 day provision. (Section 317 C 1). This Uniform Standard of Good Faith is in addition to the requirements in Section 317 of the Agreement.

In the simplest of terms “Good Faith” means the absence of intent to commit fraud.

The exemption certificate, document, or other proof that substantiates the exemption within the 120 day provision must meet the following requirements:

- 1.) The exemption reason claimed must be statutorily available in the state wherein the transaction was sourced.
- 2.) The seller does not have reason to believe that the purchaser is not entitled to the exemption claimed.
- 3.) The certificate or proof that the sale was not subject to tax must contain no statement or entry which the seller or lessor knows, or has reason to know, is false or misleading.
- 4.) The purchaser must provide the required information to substantiate the exemption including but not limited to, purchaser name, address, tax ID number, FEIN or Driver’s license number with state of issue.