

A motion by Kentucky, Nebraska, New Jersey, South Dakota, Tennessee to amend and re-title Section 313 – Direct Mail Sourcing

Section 313: SOURCING FOR ADVERTISING AND PROMOTIONAL DIRECT MAIL SOURCING

A. Notwithstanding Section 310, a purchaser of printed advertising and promotional direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either ~~a Direct Mail Form~~ an exemption certificate claiming advertising and promotional direct mail or information to show the jurisdictions to which the advertising and promotional direct mail is delivered to recipients. The provisions of this section are limited to retail sales of printed advertising and promotional materials that meet the definition of “direct mail” contained within the definition of “delivery charges” in Appendix C, Part I of this Agreement.

1. Upon receipt of the ~~Direct Mail Form~~ exemption certificate claiming advertising and promotional direct mail, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. An exemption certificate claiming advertising and promotional direct mail ~~Direct Mail Form~~ shall remain in effect for all future sales of such direct mail by the seller to the purchaser until it is revoked in writing.
2. Upon receipt of information from the purchaser showing the jurisdictions to which the advertising and promotional direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

B. If the purchaser of advertising and promotional direct mail does not have a direct pay permit and does not provide the seller with either ~~a Direct Mail Form~~ an exemption certificate claiming advertising and promotional direct mail or delivery information, as required by subsection (A) of this section, the seller shall collect the tax according to

Section 310, subsection (A)(5). Nothing in this paragraph shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

C. If a purchaser of advertising and promotional direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide ~~a Direct Mail Form~~ an exemption certificate claiming advertising or promotional direct mail or delivery information to the seller.

D. For purposes of this section, "advertising and promotional direct mail" is printed material that meets the definition of "direct mail," contained within the definition of "delivery charges" in Appendix C, Part I of this Agreement, the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. As used herein, the word "product" means tangible personal property, a digital good or a service.

"Advertising and promotional direct mail" does not include the following types of direct mail:

- 1) transactional direct mail that contains personal information specific to the addressee including, but not limited to invoices, bills, statements of account, payroll advices;
- 2) any legally required mailings including, but not limited to privacy notices, tax reports and stockholder reports; and
- 3) other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to newsletters and informational pieces.