Section 317: ADMINISTRATION OF EXEMPTIONS

Each member state shall observe the following provisions when a purchaser claims an exemption:

1. The seller shall obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the governing board.
2. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used.
3. The seller shall use the standard form for claiming an exemption electronically as adopted by the governing board.
4. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.
5. A member state may utilize a system wherein the purchaser exempt from the payment of the tax is issued an identification number that shall be presented to the seller at the time of the sale.
6. The seller shall maintain proper records of exempt transactions and provide them to a member state when requested.
7. A member state shall administer use-based and entity-based exemptions when practicable through a direct pay permit, an exemption certificate, or another means that does not burden sellers.
8. After December 31, 2007, in the case of drop shipment sales, member states must allow a third party vendor (e.g., drop shipper) to claim a resale exemption based on an exemption certificate provided by its customer/re-seller or any other acceptable information available to the third party vendor evidencing qualification for a resale exemption, regardless of whether the customer/re-seller is registered to collect and remit sales and use tax in the state where the sale is sourced.

Each member state shall relieve sellers that follow the requirements of this section from the tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and to hold the purchaser liable for the nonpayment of tax. This relief from liability does not apply to a seller who fraudulently fails to
collect tax; to a seller who solicits purchasers to participate in the unlawful claim
of an exemption; to a seller who accepts an exemption certificate when the
purchaser claims an entity-based exemption when (1) the subject of the
transaction sought to be covered by the exemption certificate is actually received
by the purchaser at a location operated by the seller and (2) the state in which
that location resides provides an exemption certificate that clearly and
affirmatively indicates (graying out exemption reason types on the uniform form
and posting it on a state’s web site is an indicator) that the claimed exemption is
not available in that state; or to a seller who accepts an exemption certificate
claiming multiple points of use for tangible personal property other than
computer software for which an exemption claiming multiple points of use is
acceptable under Section 312.

Each state shall relieve a seller of the tax otherwise applicable 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.

1. If the seller has not obtained an exemption certificate or all relevant data
elements as provided in Section 317, subsection (C) the seller may, within 120
days subsequent to a request for substantiation by a member state, either prove
that the transaction was not subject to tax by other means or obtain a fully
completed exemption certificate from the purchaser, taken in good faith. For
purposes of this section, member states may continue to apply their own
standards of good faith until such time as a uniform standard for good faith is
defined in the Agreement.

2. Nothing in this section shall affect the ability of member states to require
purchasers to update exemption certificate information or to reapply with the
state to claim certain exemptions.

3. Notwithstanding the aforementioned, each member state shall relieve a seller
of the tax otherwise applicable if it obtains a blanket exemption certificate for a
purchaser with which the seller has a recurring business relationship. States
may not request from the seller renewal of blanket certificates or updates of
exemption certificate information or data elements when there is a recurring
business relationship between the buyer and seller. For purposes of this section a recurring business relationship exists when a period of no more than twelve months elapses between sales transactions.

Compiler’s note: On April 16, 2005 Subsection (A)(8) was added. Subsection (B) was amended to delete “any” and insert “the” after “from” in the first sentence and by inserting all the material after “claim an exemption” in the second sentence. Subsection (C) was inserted. Each member state shall comply with the April 16, 2005 amendments to this section no later than January 1, 2008.

Compiler’s note: On December 14, 2006 Section 312 was repealed making the last clause in the January 1, 2008 version of Section 317 B obsolete.