

Relaxed Good Faith Requirement

H.R. 3396, Sales Tax Fairness and Simplification Act introduced in the United States House of Representatives in Section 6 Minimum Simplification Requirements includes the following regarding good faith; “A Member State shall relax the good faith requirement for acceptance of exemption certificates in accordance with Section 317 of the Agreement, as amended through the date of enactment of this Act.”

A fundamental principle of the Agreement is simplified administration of exemptions. Section 317, Administration of Exemptions in the Agreement provides for a consistent method member states are required to follow. Creating a simplified administration process that is uniform in all of the member states is a component of relaxed good faith.

Simplifications include the following:

- 1.) A single multi-purpose “Streamlined Sales Tax Certificate of Exemption” accepted by all member states and some non-member states that can be used for all types of exemptions.
- 2.) Relief from liability – sellers that follow the requirements in Section 317 are relieved from liability and the states will hold the purchaser liable.
- 3.) Member states relieve the seller of the tax for fully completed exemption certificates or relevant data elements obtained within 90 days of the sale.
- 4.) For sales where the seller has not obtained the necessary documentation to substantiate an exempt sale the seller has 120 days from the request by a member state to provide the documentation.
- 5.) Member states are required to provide direct pay permits. This provision allows the holder of the direct pay permit to make the proper tax determination and report the tax to the appropriate state.
- 6.) Electronic data elements as specified in Section 317 are acceptable in place of a paper exemption certificate, in which case no electronic signature is required.
- 7.) States cannot require renewals or updates of certificates and/or data elements if a recurring business relationship exists between the buyer and seller, with no more than 12 months between transactions.
- 8.) States will honor an exemption certificate filed by a purchaser even if the purchaser is not a resident or registered business in that state.
- 9.) Member states cannot require sellers to verify validity of exemption numbers.
- 10.) Drop shipper to accept resale certificate from seller if seller is not registered in the state in which sale is sourced.