

423.19 Direct mail sourcing.

1. Notwithstanding section 423.15, the following provisions apply to sales of advertising and promotional direct mail:

a. A purchaser of advertising and promotional direct mail may provide the seller with one of the following:

(1) A direct pay permit.

(2) An agreement certificate of exemption claiming to be direct mail, or a similar written statement, if the statement is approved, authorized, or accepted by the department.

(3) Information showing the jurisdiction to which the advertising and promotional direct mail is to be delivered to the recipient.

b. (1) If the purchaser provides the seller a permit, a certificate of exemption, or an approved written statement pursuant to paragraph "a", subparagraph (1) or (2), then, in the absence of bad faith, the seller is relieved of the obligation to collect, pay, or remit tax on a transaction involving advertising and promotional direct mail to which the permit, certificate, or approved written statement applies. In such a transaction, the purchaser shall source the sale to the jurisdiction in which the advertising and promotional direct mail is to be delivered to the recipient and shall report and pay any tax due accordingly.

(2) If the purchaser provides the seller information showing the jurisdiction to which the advertising and promotional direct mail is to be delivered pursuant to paragraph "a", subparagraph (3), the seller shall source the sale to the jurisdiction in which the advertising and promotional direct mail is to be delivered and shall collect and remit the tax due accordingly. If the seller has sourced the sale according to the delivery information provided by the purchaser, then, in the absence of bad faith, the seller is relieved of any further obligation to collect tax on the sale of the advertising and promotional direct mail.

c. (1) If the purchaser fails to provide the seller with one of the items listed in paragraph "a", the sale shall be sourced pursuant to the sourcing directive described in section 423.15, subsection 1, paragraph "e".

(2) If a sale is sourced to this state pursuant to subparagraph (1), the full amount of the tax imposed by subchapter II or III, as applicable, is due from the purchaser, notwithstanding section 423.22.

2. Notwithstanding section 423.15, sales of other direct mail are subject to all of the following:

a. Except as otherwise provided in this subsection, the sale of other direct mail shall be sourced pursuant to the sourcing directive described in section 423.15, subsection 1, paragraph "c".

b. A purchaser of other direct mail may provide the seller with either of the following:

(1) A direct pay permit.

(2) An agreement certificate of exemption claiming to be direct mail, or a similar written statement, if the statement is approved, authorized, or accepted by the department.

c. (1) If the purchaser provides the seller a permit, a certificate of exemption, or an approved written statement pursuant to paragraph "b", then, in the absence of bad faith, the seller is relieved of the obligation to collect, pay, or remit tax on a transaction involving other direct mail to which the permit, certificate, or approved written statement applies.

(2) Notwithstanding paragraph "a", the sale of other direct mail under the circumstances described in subparagraph (1) shall be sourced to the jurisdiction in which the other direct mail is to be delivered to the recipient, and the purchaser shall report and pay any tax due accordingly.

2003 Acts, 1st Ex, ch 2, §112, 205; 2011 Acts, ch 92, §9

[T] Section stricken and rewritten