

423.51 Administration of exemptions.

1. The following provisions shall apply when a purchaser claims an exemption:

a. 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 member states acting jointly.

b. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper certificate is used.

c. The seller shall use the standard form for claiming an exemption electronically as adopted jointly by the member states.

d. The seller shall obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

e. The department may authorize a system wherein the purchaser exempt from the payment of the tax is issued an identification number which shall be presented to the seller at the time of the sale.

f. The seller shall maintain proper records of exempt transactions and provide them to the department when requested.

g. The department shall administer entity-based and use-based exemptions when practicable through a direct pay tax permit, an exemption certificate, or another means that does not burden sellers. For the purposes of this paragraph:

(1) An *“entity-based exemption”* is an exemption based on who purchases the product or who sells the product.

(2) A *“use-based exemption”* is an exemption based on the purchaser’s use of the product.

2. Sellers that follow the requirements of this section are relieved from any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and that the purchaser is liable for the nonpayment of tax. This relief from liability does not apply to a seller who does any of the following:

a. Fraudulently fails to collect tax.

b. Solicits purchasers to participate in the unlawful claim of an exemption.

c. Accepts an exemption certificate when the purchaser claims an entity-based exemption when the following conditions are met:

(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.

(2) The state provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in the state.

3. a. A seller otherwise obligated to collect tax from a purchaser is relieved of that obligation if the seller obtains a fully completed exemption certificate or secures the relevant data elements of a fully completed exemption certificate within ninety days after the date of sale.

b. If the seller has not obtained an exemption certificate or all relevant data elements as provided in paragraph “a”, the seller may, within one hundred twenty days after a request for substantiation by the department, 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.

c. Nothing in this subsection shall affect the ability of the state to require purchasers to update exemption certificate information or to reapply with the state to claim certain exemptions.

d. Notwithstanding paragraphs “a”, “b”, and “c”, a seller is relieved of its obligation to collect tax from a purchaser if the seller obtains a blanket exemption certificate from the purchaser, and the seller and purchaser have a recurring business relationship. For the purposes of this paragraph, a recurring business relationship exists when a period of no more than twelve months elapses between sales transactions. The department 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 purchaser and seller.

4. All relief that this section provides to sellers is also provided to certified service providers under this chapter.

2003 Acts, 1st Ex, ch 2, §144, 205; 2006 Acts, ch 1158, §77, 78, 80; 2007 Acts, ch 179, §7
[SP] 2006 amendments to this section amending subsection 2 and adding new subsections 3 and 4 take effect January 1, 2008; 2006 Acts, ch 1158, §80