

423.33 Liability of persons for payment of sales or use tax.**1. Liability of purchaser and retailer.**

a. If a purchaser fails to pay sales tax to the retailer required to collect the tax, then in addition to all of the rights, obligations, and remedies provided, a use tax is payable by the purchaser directly to the department, and [sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42](#) apply to the purchaser.

b. For failure to pay the sales or use tax as described in paragraph “a”, the retailer and purchaser are jointly liable, unless the circumstances described in [section 29C.24, subsection 3, paragraph “a”, subparagraph \(2\), section 421.60, subsection 2, paragraph “m”, section 423.34A, or section 423.45, subsection 4, paragraph “b” or “e”, or subsection 5, paragraph “c”](#) or “e”, are applicable.

c. If the retailer fails to collect sales tax at the time of the transaction, the retailer shall thereafter remit the applicable sales tax, or the purchaser thereafter shall remit the applicable use tax. If the purchaser remits all applicable use tax, the retailer remains liable for any local sales and services tax under [chapter 423B](#) that the retailer failed to collect.

2. *Immediate successor liability for sales or use tax.* If a retailer sells the retailer’s business or stock of goods or quits the business, the retailer shall prepare a final return and pay all sales or use tax due within the time required by law. The immediate successor to the retailer, if any, shall withhold a sufficient portion of the purchase price, in money or money’s worth, to pay the amount of delinquent tax, interest, or penalty due and unpaid. If the immediate successor of the business or stock of goods intentionally fails to withhold the amount due from the purchase price as provided in [this subsection](#), the immediate successor is personally liable for the payment of delinquent taxes, interest, and penalty accrued and unpaid on account of the operation of the business by the immediate former retailer, except when the purchase is made in good faith as provided in [section 421.28](#). However, a person foreclosing on a valid security interest or retaking possession of premises under a valid lease is not an “immediate successor” for purposes of [this section](#). The department may waive the liability of the immediate successor under [this subsection](#) if the immediate successor exercised good faith in establishing the amount of the previous liability.

3. *Event sponsor’s liability for sales tax.* A person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event shall obtain from every retailer selling tangible personal property, specified digital products, or taxable services at the event proof that the retailer possesses a valid sales tax permit or secure from the retailer a statement, taken in good faith, that tangible personal property, specified digital products, or services offered for sale are not subject to sales tax. Failure to do so renders a sponsor of the event liable for payment of any sales tax, interest, and penalty due and owing from any retailer selling property or services at the event. [Sections 423.31, 423.32, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42](#) apply to the sponsors. For purposes of [this subsection](#), a “*person sponsoring a flea market or a craft, antique, coin, or stamp show or similar event*” does not include an organization which sponsors an event determined to qualify as an event involving casual sales pursuant to [section 423.3, subsection 39](#), or the state fair or a fair as defined in [section 174.1](#).

4. Liability of affiliates.

a. Notwithstanding any other provision of law to the contrary, if any retailer required to collect and remit sales and use tax pursuant to [sections 423.14, 423.14A, and 423.29](#), or any other provision of [this chapter](#), fails to do so, all affiliates that directly, indirectly, or constructively control the retailer shall be jointly and severally liable for any tax, penalty, and interest under [this chapter](#), regardless of whether the affiliate is a retailer.

b. Pursuant to paragraph “a”, the department may elect to assess the full amount of any tax, penalty, and interest against the retailer, an affiliate of the retailer described in paragraph “a”, or any combination of the retailer and the retailer’s affiliates described in paragraph “a”.

c. Notwithstanding any other provision of law to the contrary, the department has the discretion to deem an affiliate of a retailer an agent or alter ego of that retailer.

d. Notwithstanding any other provision of law to the contrary, the department has the discretion to disregard or look through any organizational structure of an enterprise in order

to assess and collect any tax, penalty, and interest against an affiliate that is acting to benefit an affiliate or an enterprise of which the affiliate is a part.

2003 Acts, 1st Ex, ch 2, §126, 205; 2005 Acts, ch 19, §55; 2006 Acts, ch 1158, §50; 2007 Acts, ch 179, §3, 10; 2016 Acts, ch 1095, §10, 14; 2018 Acts, ch 1161, §213, 214, 229; 2020 Acts, ch 1118, §47

Referred to in §99G.30A, 321.105A, 421.26, 421.28, 423.14, 423.34, 423.57, 423A.6, 423B.6, 423C.4, 423D.4, 423G.5
Legislative intent regarding 2020 amendment to subsection 1; 2020 Acts, ch 1118, §49