Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 03 Taxability

Chapter 05 Interstate Commerce, Sales In

100 Sales delivered outside this state

101 All sales made and taxable services performed from a business location within the state or by a Mississippi dealer are presumed to be taxable Mississippi sales unless and until the dealer can substantiate an authorized claim for exemption. In the case of exemption by reason of delivery of the goods outside the state to an out-of-state customer, the dealer is required to establish that such delivery did, in fact, take place and that such delivery was a condition precedent to consummation of the sale.

102 Sales and taxable repairs of tangible personal property are exempt from the Mississippi sales tax levy when:

1. The seller is required by the sales agreement to physically deliver the goods sold in the vendor's equipment from a point in this state to a point outside this state, not to be returned to a point within this state, and provided that such delivery is actually made, or
2. The seller is required by the sales agreement to deliver the goods to a common carrier or to the United States Post Office for transportation outside the state at the seller's direction, or
3. The seller is required by the sales agreement to deliver the goods outside the state by use of an independent trucker.

103 For purposes of this Chapter, neither the purchaser nor the seller is considered a common carrier even though they may operate as one commercially.

104 When tangible personal property is purchased in Mississippi for resale in another state by a dealer regularly engaged in selling such property and such dealer holds a valid sales tax permit or its equivalent for that state, the sale is exempt from tax.

105 Sales of automobiles, trucks, truck-tractors, semi-trailers, trailers, boats, motorhomes (R.V.), travel trailers, motorcycles and all-terrain cycles which are exported from this state within forty-eight (48) hours and registered and first used in another state are exempt from sales tax under Miss. Code Ann. Sections 27-65-101(1)(s) and 27-65-111(i). A properly executed Certificate of Interstate Sale must be maintained to substantiate sales of boats, all-terrain cycles or other equipment not required to be registered for highway use.

106 (Reserved)

Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 03 Taxability

200 Sales delivered into this state

201 Persons operating a place of business in this state as well as one or more places of business outside this state are liable for sales tax on all sales made by or delivered from the Mississippi business and are liable for collection of use tax on all sales delivered in Mississippi by or from their out-of-state businesses.

202 Persons who do not maintain a place of business in Mississippi but who are represented in this state by salesmen who solicit or accept orders for merchandise which is subsequently delivered in this state are liable for collection of Mississippi use tax.

203 Merchandise shipped from a point of origin in Mississippi which passes through another state before reaching a point of destination in Mississippi is not considered as a sale made through channels of interstate commerce and the receipts from the property sold are taxable.

204 (Reserved)

300 Drop shipment sales into this state

301 A drop shipment of merchandise is a shipment from a seller directly to the retailer's Mississippi customer, at the direction of the retailer. Generally, a retailer accepts an order from an end customer, places this order with a third party seller, usually a manufacturer or wholesale distributor, and directs the third party to ship the goods directly to the end customer. This sequence of events results in two transactions: a) the sale by the primary seller (i.e. distributor) to the retailer and b) the sale from the retailer to the retailer's Mississippi customer.

302 If the retailer has a valid Mississippi sales tax permit, then the retailer should furnish a copy of the permit to the primary seller, rendering the first sale a non-taxable transaction. The retailer then collects sales tax on behalf of the state on the sale to its Mississippi customer.

303 If the retailer is not registered to do business in Mississippi and the primary seller has nexus with Mississippi the sale to the retailer is a taxable transaction by the primary seller who is responsible for remitting the tax. An exception occurs when one of the following conditions are met:

1. The Mississippi customer is a licensed dealer purchasing the property for resale through his regular course of business. The primary seller can obtain a copy of the Mississippi customer's sales tax permit and the resale exemption may flow through the retailer to the seller.
2. The Mississippi customer has a Direct Pay Permit. The Direct Pay Permit authorization may flow through the retailer to the seller.

3. The Mississippi customer is an exempt entity under the provision of the Mississippi Sales Tax Law. The Mississippi customer must furnish proof of exempt status to the seller. If proof of such exemption is not furnished, the sale is taxable.

304 (Reserved)

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101~~0~~ All sales made and taxable services performed from a business location within the ~~State~~state or by a Mississippi dealer are presumed to be taxable Mississippi sales unless and until the dealer can substantiate an authorized claim for exemption. In the case of exemption by reason of delivery of the goods outside the ~~State~~state to an out-of-~~state~~state customer, the dealer is required to establish that such delivery did, in fact, take place and that such delivery was a condition precedent to consummation of the sale.

102~~A Certificate of Interstate Sale (Form 61-127) is to be used as substantiation when claiming an exemption on sales of airplanes, heavy equipment, boat motors, furniture, and appliances.~~

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3. The seller is required by the sales agreement to deliver the goods outside the state by use of an independent trucker.

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Sub Part 03 Taxability

106 (Reserved)

200 Sales delivered into this state

20102 Persons operating a place of business in this Statestate as well as one or more places of business outside this sState are liable for sales tax on all non-exempt sales made by or delivered from the Mississippi business and are liable for collection of use tax on all non-exempt sales delivered in Mississippi by or from their out-of-state businesses.

120203 Persons who do not maintain a place of business in Mississippi but who are represented in this Statestate by salesmen who solicit or accept orders for merchandise which is subsequently delivered in this Statestate are liable for collection of Mississippi Uuse Ttax.

104 Sales are construed to be interstate commerce and exempt from the Mississippi Sales Tax levy when:

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204 (Reserved)

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