



## ST 2013-01 – Direct Mail Sourcing and Definitions, August, 2013

This Information Release defines direct mail terms and explains how to source “other direct mail” and “advertising and promotional direct mail.”

### Definitions

“Advertising and promotional direct mail” means:

- a. printed material that meets the definition of “direct mail,” in R.C. 5739.01(ZZ);
- b. the primary purpose of which is to attract public attention to a product, person, business or organization, or to attempt to sell, popularize or secure financial support for a product, person, business or organization. “Product” means tangible personal property, a product transferred electronically or a service.

“Other direct mail” means any direct mail that is not “advertising and promotional direct mail” regardless of whether “advertising and promotional direct mail” is included in the same mailing. The term includes, but is not limited to:

- a. Transactional direct mail that contains personal information specific to the addressee including, but not limited to, invoices, bills, statements of account, payroll advices;
- b. Any legally required mailings including, but not limited to, privacy notices, tax reports and stockholder reports; and
- c. Other non-promotional direct mail delivered to existing or former shareholders, customers, employees, or agents including, but not limited to, newsletters and informational pieces.

Other direct mail does not include the development of billing information or the provision of any data processing service that is more than incidental

### Sourcing of “Other Direct Mail”

Except as otherwise provided below, sales of “other direct mail” are sourced in accordance with R.C. 5739.033(C)(3). That provision sources the sale “to the location indicated by an address for the purchaser that is available from the vendor’s business records that are maintained in the ordinary course of the vendor’s business, when use of that address does not constitute bad faith.”

A purchaser of “other direct mail” may provide the vendor with either:

- a. A direct pay permit; or
- b. A fully completed certificate of exemption claiming “direct mail” (or other written statement that includes the purchaser’s name and business address; a vendor’s license or seller’s account number, if any; the name of the seller; the reason for exemption; and the signature of the purchaser, if provided in hard copy).

If the purchaser provides the permit, certificate or statement referred to in a or b, the vendor, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any tax on any transaction involving “other direct mail” to which the certificate or statement apply. However, the purchaser is required to report and pay the applicable tax due to the jurisdictions in which the recipients of the “other direct mail” are located.

**Sourcing of “Advertising and Promotional Direct Mail”**

Except as otherwise provided below, sales of “advertising and promotional direct mail” are sourced in accordance with R.C. 5739.033(C)(5). That provision sources the sale to the address from which the tangible personal property was shipped.

A purchaser of “advertising and promotional direct mail” may provide the vendor with:

- a. A direct pay permit; or
- b. A fully completed certificate of exemption claiming “direct mail; (or other written statement that includes the purchaser’s name and business address; a vendor’s license or seller’s account number, if any; the name of the seller; the reason for exemption; and the signature of the purchaser, if provided in hard copy); or
- c. Information showing the jurisdictions to which the “advertising and promotional direct mail” is to be delivered to the recipients.

If the purchaser provides the permit, certificate or statement referred to in a or b, the vendor, in the absence of bad faith, is relieved of all obligations to collect, pay or remit any tax on any transaction involving “advertising and promotional direct mail” to which the certificate or statement apply. However, the purchaser is required to report and pay the applicable tax due to the jurisdictions in which the recipients of the “advertising and promotional direct mail” are located.

If the purchaser provides the vendor with information showing the jurisdictions to which the “advertising and promotional direct mail” is to be delivered to recipients, the vendor shall source the sale to those jurisdictions and collect and remit the applicable tax. In the absence of bad faith, the vendor is relieved of any further obligation to collect any additional tax on the sale of “advertising and promotional direct mail” if the vendor has sourced the sale according to the delivery information provided by the purchaser. However, the purchaser is required to report and pay the applicable use tax due to the jurisdictions in which the recipients of the “advertising and promotional direct mail” are located if the vendor has not collected sales tax in those jurisdictions.

If you have any questions regarding this matter, you should call us at 1-888-405-4039.

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