



25 Sigourney Street Ste 2
Hartford CT 06106-5032

POLICY STATEMENT

Sales and Use Tax Rules for Drop Shipments

Purpose: This Policy Statement describes the scope and application of Conn. Gen. Stat. §12-407(a)(3)(A) for purposes of Connecticut sales and use taxes, commonly referred to as the “drop shipment” rule.

Effective Date: Applicable to all open periods.

Statutory Authority: Conn. Gen. Stat. §12-407(a)(3)(A).

The Drop Shipment Rule: The definition of *retail sale* in Conn. Gen. Stat. §12-407(a)(3)(A) contains the following language:

The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, if the delivery is to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. Such person shall include the retail selling price of the property in such person’s gross receipts.

This language is referred to as the “drop shipment” rule. Under the drop shipment rule, Connecticut law imposes liability for sales tax on third parties (usually the manufacturer or a wholesaler of the goods) who deliver goods into Connecticut on behalf of retailers not engaged in business in this State.

Application of the Drop Shipment Rule: The drop shipment rule applies when a registered out-of-state seller (generally a wholesaler or a

manufacturer, and referred to as “Wholesaler”) sells tangible personal property to an unregistered out-of-state seller (“Unregistered Seller”) and Wholesaler either delivers the tangible personal property with its own vehicles to the unregistered seller’s customer in Connecticut (“Customer”) or ships it F.O.B. destination. Wholesaler must charge tax to Customer on the goods delivered in Connecticut unless Customer establishes that the purchase is not taxable. Please note that the location of the inventory does not change the applicability of the drop shipment rule.

The following example illustrates the application of the drop shipment rule:

Example 1: Customer, which is located in Connecticut, orders merchandise from Unregistered Seller. Unregistered Seller, in turn, purchases the merchandise from Wholesaler, an out-of-state company, who is registered to collect Connecticut sales and use taxes. Unregistered Seller arranges for Wholesaler to drop ship the merchandise to Customer’s location in Connecticut. Wholesaler delivers the merchandise to Customer in its own vehicles.

Since Unregistered Seller is not registered to collect Connecticut sales and use taxes, Unregistered Seller will bill Customer only for the selling price of the item sold, plus any applicable shipping or handling charges. As the drop shipper, Wholesaler will be required to bill Unregistered Seller for the merchandise sold, and Customer for the Connecticut sales tax due on the sale, unless Customer provides an acceptable certificate (as discussed below) to Wholesaler.

Acceptable Certificates: Wholesaler must charge tax to Customer unless Customer

establishes that the purchase is not taxable by issuing a:

- Connecticut resale certificate;
- Multistate Tax Commission *Uniform Sales & Use Tax Certificate — Multijurisdiction* issued as a resale certificate (the MTC certificate is not valid in Connecticut for any other exemption);
- Connecticut exemption certificate; **or**
- Direct payment permit from Customer (see **Informational Publication 2004(7)**, *Q & A on the Direct Payment Permit Program*).

A resale certificate or exemption certificate issued by the Unregistered Seller to Wholesaler will not exempt the sale of the tangible personal property from Connecticut tax.

Measure of Sales Tax: The computation of the Connecticut sales tax for this transaction is based on the known selling price of the tangible personal property. If Wholesaler knows the actual selling price of the tangible personal property that Unregistered Seller is charging Customer, then the measure of the tax is the actual selling price. If Wholesaler does not know the actual selling price of the tangible personal property that Unregistered Seller is charging Customer, then the measure of the tax is the sales price that Wholesaler is charging Unregistered Seller for the goods.

Customer is liable for payment of the remainder of the tax directly to the State of Connecticut as a use tax.

Where the Drop Shipment Rule Does Not Apply:

- The drop shipment rule does not apply when Wholesaler is not registered in Connecticut as a retailer; and
- The Connecticut Supreme Court ruled in *Steelcase, Inc. v. Crystal*, 238 Conn. 571, 680 A.2d 289 (1996), that a drop shipper whose contract provided that title to goods was transferred when shipment was accepted for transportation by a common carrier outside Connecticut did not deliver the goods in Connecticut and, therefore, did not make a retail sale in Connecticut under Conn. Gen. Stat. §12-407(a)(3). The most common of these contracts are those which include a phrase such

as “F.O.B. shipping point,” “F.O.B. seller's plant” or “F.O.B. seller's city.”

Thus, if Wholesaler is not registered as a retailer in Connecticut, or if it is but the goods were shipped by common carrier (and the shipment was accepted for transportation by the common carrier outside Connecticut) or F.O.B. shipping point, this rule would apply:

Connecticut sales or use tax applies to any transaction where title to the goods being sold transfers from the seller to the buyer in Connecticut. Connecticut use tax also applies to any transaction where title to the goods transfers outside Connecticut, but the goods are intended to be used in, and are brought into, Connecticut.

In such a situation, Wholesaler is not required to charge Connecticut sales tax to Unregistered Seller and Customer. However, Customer owes use tax to Connecticut on its full purchase price unless Customer is purchasing the goods for resale in the regular course of business or is tax exempt under Conn. Gen. Stat. §12-412.

Effect on Other Documents: None affected.

Effect of This Document: A Policy Statement explains in depth a current DRS position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); **or**
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

Forms and Publications: Visit the DRS website at www.ct.gov/DRS to download and print Connecticut tax forms and publications.

Paperless Filing/Payment Methods (fast, easy, free, and confidential): Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at www.ct.gov/TSC to file a variety

of tax returns, update account information, and make payments online.

File Electronically: You can choose first-time filer information and filing assistance or log directly into the *TSC* to file returns and pay taxes.

Pay Electronically: You can pay taxes for tax returns that cannot be filed through the *TSC*. Log in and select the *Make Payment Only* option. Designate a payment date up to the due date of the tax and mail a paper return to complete the filing process.

DRS E-Alerts Service: Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures.

DRS E-Alerts provide information for employer's withholding tax, News – Press Releases, and Top 100 Delinquency List. Visit the DRS website at www.ct.gov/DRS and select *Sign up for e-alerts* under *How Do I?* on the gold navigation bar.

PS 2013(3)
Sales and use taxes
Drop shipment
Issued: 06/19/13