

Sec. 12-426-22. Collection of use tax by out-of-state retailers

(a) Out-of-state retailers engaged in business in this state and making out-of-state sales or leases of tangible personal property for use, storage and other consumption in this state or rendering services in this state which are subject to the tax must register with the Commissioner of Revenue Services and must collect the tax due thereon from the purchaser, or in lieu of such tax obtain a resale certificate therefor signed by the purchaser and bearing his Seller's Permit Number. Such retailers shall pay the taxes so collected in the manner and form as other retailers licensed to sell tangible personal property as retailers in this state.

"Engaged in business in the state" means selling or leasing in this state, or any activity in this state in connection with selling or leasing in this state, tangible personal property for use, storage, or consumption within the state. Selling in this state shall include the rendering of taxable services in this state. The term "engaged in business in this state" shall include but not be limited to the following acts or methods of transacting business:

(1) Maintaining, occupying or using, permanently or temporarily, directly or indirectly, through a subsidiary or agent, by whatever name called, of any office, place of distribution, sales or sample room or place, warehouse or storage point or other place of business or (2) having any representative, agent, salesman, canvasser or solicitor operating in this state for the purpose of selling or leasing, delivering or taking orders for tangible personal property or services.

(b) Out-of-state retailers who are not engaged in business in this state but who make out-of-state sales or leases of tangible personal property for use, storage or other consumption in this state or render services in this state which are subject to the tax may also register with the Commissioner of Revenue Services for authorization to collect tax due thereon from the purchaser, or in lieu of such tax obtain a resale certificate therefor signed by the purchaser and bearing his Seller's Permit Number. Such retailers shall pay the taxes so collected in the manner and form as other retailers licensed to sell tangible personal property as retailers in this state.

In the case of all such sales the out-of-state retailer shall furnish the purchaser with a receipt showing the name, permit number and place of business of the retailer, the name and address of the purchaser, the date of the sale and the type of the article purchased together with the sales price and the amount of tax collected thereon. A sales invoice evidencing such information will constitute a receipt.

(c) Every out-of-state retailer selling or leasing tangible personal property for use, storage, or other consumption in this state or rendering services in this state shall furnish to the Commissioner of Revenue Services the names and addresses of all its agents, representatives, salesmen or solicitors engaged in business in this state. All salesmen, representatives, peddlers or canvassers may, in the discretion of the Commissioner of Revenue Services, be considered as retailers and jointly responsible with their principals, employers or supervisors for the collection and payment of taxes.

(Effective April 7, 1980)