

## REG-1-105, Direct Mail

105.01 Direct mail means printed material delivered or distributed by U.S. mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

105.01A Advertising and promotional direct mail means direct mail that is intended to attract public attention to a product, person, business, or organization or attempt to sell, popularize, or secure financial support for the same. Advertising and promotional direct mail includes, but is not limited to: flyers, brochures, and catalogs.

105.01B Other direct mail includes transactional documents that contain personal information specific to the addressee, such as billing invoices and bank statements, or legal mailings such as privacy notices and stockholder reports. Other direct mail does not include the development of billing information or data processing services that are more than incidental to the transaction.

105.02 Sales of advertising and promotional direct mail and other direct mail are exempt from sales tax when the purchaser furnishes the seller with a certificate of exemption for direct mail.

105.02A The purchaser issuing the certificate of exemption for direct mail is responsible for remitting use tax on material delivered to locations within Nebraska. The tax is due on the Nebraska portion on or before the 20th day of the month following the close of the reporting period.

105.02B A certificate of exemption for direct mail remains in effect until it is revoked, in writing, by the purchaser.

105.03 In lieu of a certificate of exemption for direct mail, purchasers of advertising and promotional direct mail may furnish the seller with delivery information showing the jurisdictions to which the advertising and promotional direct mail is delivered.

105.03A If the purchaser is unable to provide the seller with information showing the state and local jurisdictions to which the advertising and promotional direct mail is delivered, the purchaser may utilize any reasonable, consistent, and uniform method of allocating the sale to the jurisdictions of delivery. Acceptable methods of allocation include:

105.03A(1) Population in the jurisdictions of delivery as a percentage of the total population in the distribution area;

105.03A(2) Percentage of customer accounts in the jurisdictions of delivery as a percentage of the total number of customer accounts of the purchaser; or

105.03A(3) Summary by zip code.

105.03B The seller must collect sales tax on the gross receipts from the sale of advertising and promotional direct mail delivered to locations within Nebraska.

105.04 If the purchaser of advertising and promotional direct mail does not provide the seller with either a certificate of exemption, delivery information, or an allocation method under Reg-1-105.03A, the seller must collect sales tax on sales of advertising and promotional direct mail based upon the address from which the advertising and promotional direct mail was shipped.

105.05 If the purchaser of other direct mail does not provide the seller with a certificate of exemption, the seller must collect sales tax on sales of other direct mail based upon the purchaser's address.

105.06 The sales tax paid to the seller under either sections 105.04 or 105.05 does not constitute a properly-paid tax for purposes of allowing credit against the use tax due to the state or locality based upon the delivery locations.

105.07 A properly completed certificate of exemption for direct mail received from the purchaser is conclusive proof for the seller that the sale is exempt.

105.08 The Nebraska Department of Revenue (Department) will recognize only the Streamlined Sales and Use Tax Agreement (SSUTA) certificate of exemption for direct mail or a previously-approved substitute for this certificate. To be properly completed, the certificate of exemption for direct mail must include all of the following:

105.08A Identification of both the purchaser and retailer including the type of business engaged in by the purchaser;

105.08B The use tax or sales tax permit number of the purchaser. If the purchaser has no permit number, state the reason;

105.08C An authorized signature or other form of authorization as required by the SSUTA; and

105.08D The date of issuance.

105.09 Any purchaser, or the agent for the purchaser, who gives a certificate of exemption for direct mail or delivery instructions to the retailer covering purchases of advertising and promotional direct mail which are not for delivery to a mass audience, is subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. The penalty applies to each purchase made during the period the certificate is in effect.

105.10 Any purchaser, or the agent for the purchaser, who fraudulently signs a certificate of exemption for direct mail or provides delivery instructions with intent to avoid payment of the tax may, in addition to the penalty set out in section 105.09, be found guilty of a Class IV misdemeanor.

105.11 The Department may make and retain copies of any certificates of exemption for direct mail or any delivery instructions received from the purchaser.

*(Neb. Rev. Stat. §§ 77-2701.12, 77-2703.03, and 77-2713(5). June 24, 2017.)*