

## REG-1-005, Retailers and Sellers

005.01 Retailer means any seller and wherever either of these terms is used, it is construed to include the other. Retailer includes:

005.01A Any person engaged in the business of selling, leasing, or renting property or services whenever the receipts are subject to sales tax;

005.01B Any person engaged in the business of making sales at auction of tangible personal property for storage, use, or other consumption, or who is collecting the proceeds of an auction (Reg-1-034 Auction and Consignment Sales);

005.01C Any person who leases or rents tangible personal property to another for storage, use, or other consumption, except film rentals when sales tax is charged on the admission, and interchanged railroad rolling stock (Reg-1-018 Rent or Lease of Tangible Personal Property);

005.01D Any person who is renting or furnishing lodging for periods of less than 30 days, except a facility which is either licensed under the Health Care Facility Licensure Act of the Nebraska Revised Statutes, or operated by an educational institution established or recognized under Chapter 79 or 85 of the Nebraska Revised Statutes, when rooms are regularly used to house students for a consideration for periods in excess of 30 days (Reg-1-046, Hotels, Lodgings, and Accommodations);

005.01E Any person who is furnishing telephone, mobile telecommunications, telegraph, gas, electricity, sewer, or water service (Reg-1-065, Telecommunications Service, and Reg-1-066, Sewer and Water);

005.01F Any person who is furnishing community or county antenna television service or satellite programming service (Reg-1-081, Community or County Antenna Television Service);

005.01G Any person who is charging admissions, except admissions charged by elementary or secondary schools, public or private, or school districts, student organizations, or parent-teacher associations pursuant to an agreement with proper school authorities, or admissions to fund-raising events by ballot question committees, candidate committees, independent committees, and political party committees that are registered with the Political Accountability and Disclosure Commission or are for candidates for federal office (Reg-1-044, Admissions);

005.01H Any person who is renting or otherwise furnishing tangible personal property under an agreement requiring the periodic cleaning or laundering of such tangible personal property (Reg-1-049, Linen and Clothing Suppliers);

005.01I Any person who is selling or otherwise providing warranties, guarantees, service contracts, or maintenance agreements covering taxable property or services (Reg-1-074, Warranties and Guarantees);

005.01J Any person who is selling or otherwise providing computer software or computer software training, when provided by the retailer that sold the software (Reg-1-088 Computer Software);

005.01K Any contractor who has elected to be treated as a retailer, or any contractor who has failed to make an election (Reg-1-017, Contractors);

005.01L Any person who is selling live plants, other than as a part of the transfer of an improvement to real estate or the real estate (Reg-1-017, Contractors);

005.01M Any person who is the promoter, operator, or organizer of a fair, flea market, craft show, or similar event (Reg-1-033, Transient and Itinerant Sellers.)

005.01M(1) Retailer does not include any person making sales at a fair, flea market, craft show, or similar event when the licensed promoter, operator, or organizer has arranged to remit the sales tax on behalf of that person for the show.

005.01N Any person providing any of the following:

005.01N(1) Animal specialty services, except for veterinary services and specialty services performed on livestock (Reg-1-102, Animal Specialty Services);

005.01N(2) Building cleaning services (Reg-1-098, Building Cleaning);

005.01N(3) Digital audio works, digital audiovisual works, digital books, and digital codes;

005.01N(4) Installing and applying tangible personal property where the sale of the property is subject to tax (Reg-1-082, Labor Charges);

005.01N(5) Motor vehicle washing, waxing, towing, and painting services (Reg-1-099, Motor Vehicle Services);

005.01N(6) Pest control services (Reg-1-100, Pest Control Services);

005.01N(7) Recreational vehicle park services (Reg-1-103, Recreational Vehicle Park Services);

005.01N(8) Repairing or maintaining tangible personal property, except motor vehicles, where the sale of the property would be subject to tax (Reg-1-082, Labor Charges); and

005.01N(9) Security and detective services (Reg-1-101, Security and Detective Services.)

005.01O Option 1 contractors who install, construct, service, repair, replace, upgrade, or remove outlets, wire, cable, or any other property for telephone, telegraph, cable, satellite, or mobile telecommunications services on the customer's or service provider's side of the demarcation point (Reg-1-017, Contractors.)

005.01P Option 2 and Option 3 contractors who install, construct, service, repair, replace, upgrade, or remove outlets, wire, cable, or any other property for telephone, telegraph, cable, satellite, or mobile telecommunications services (Reg-1-017, Contractors):

005.01P(1) On the service provider's side of the demarcation point, or

005.01P(2) On the customer's side of the demarcation point when acting as a subcontractor for telephone, telegraph, cable, satellite, or mobile telecommunications service providers.

005.02 A distributor may enter into an agreement with the Department of Revenue to collect tax for representatives working for the distributor. The distributor must collect and remit tax from representatives on the sales price of each item sold at the tax rate imposed at the delivery location of each sale. When the distributor has entered into this agreement, the individual representatives are not required to hold their own sales tax permits.

005.03 A person does not have to be engaged solely in a retail business in order to be liable for collecting, reporting, and remitting the sales and use tax. Manufacturers, producers, or wholesalers are liable for collection of the tax to the extent that they make sales at retail or have gross receipts which are taxable. Sales are sales for resale only if a resale certificate is received from the purchaser. All other sales are presumed to be taxable.

005.04 Model 1 seller means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own retail purchases.

005.05 Model 2 seller means a seller that has selected a certified automated system to perform part of its sales and use tax functions but retains responsibility for remitting the tax

005.06 Model 3 seller means a seller that has sales in at least five member states of the Streamlined Sales Tax Agreement, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller.

*(Sections 77-2701.16, 77-2701.21, 77-2701.22, 77-2701.23, 77-2701.31, 77-2701.32, and 77-2705, R.R.S 2009. June 6, 2011.)*