

## **117-317 Sales of Repossessed Property**

### **117-317.1. Finance Companies and Other Lending Institutions**

### **117-317.2. Retailers**

## **117-317 Sales of Repossessed Property.**

The following addresses the application of the sales and use tax to repossessed property.

### **117-317.1. Finance Companies and Other Lending Institutions.**

Finance companies and other lending institutions are deemed to be retailers when making sales of tangible personal property physically or constructively repossessed in claim and delivery proceedings, by peaceful surrender, or by any other means whatsoever.

The measure of the tax is the total amount proceeding or accruing from such sales whether the sale is for cash or is secured by a new conditional sales contract. On assumption agreements the amount to be included in gross proceeds of sales is the balance in default by the borrower and any down-payment made by the person assuming the borrower's obligation in exchange for the repossessed property. This is irrespective of the mechanics used by lenders in transferring title to repossessed property to new owners.

### **117-317.2. Retailers.**

Sales of tangible personal property physically or constructively repossessed by a retailer through the mechanics of claim and delivery proceedings, by peaceful surrender or otherwise are subject to the sales tax when resold either for cash or on new conditional sales contracts.

On assumption agreements the amount to be included in gross proceeds of sales is the balance in default on conditional sales contracts held by retailers and any down-payment made by the person assuming the former purchaser's obligation in exchange for the repossessed property. This is irrespective of the mechanics used by such retailers in transferring title to repossessed property to new owners.

Conversely, no tax is due by a retailer when under the terms of recourse contracts with finance companies and other lending agencies it becomes necessary for the retailer to find a buyer to assume the balance owed a lender because of default on the part of the borrower.

**HISTORY: Added by State Register Volume 26, Issue No. 6, Part 2, eff June 28, 2002.**