



Wicked Compliance: Defying the Audit Witch and Flying Free with Smart Billing Strategies

By Jamie Szal and Martin Eisenstein

Direct mail producers specializing in high-volume marketing for ecommerce clients face a hydra-headed monster in the form of state sales tax compliance, where unforced errors in billing or sourcing can have catastrophic cost and audit consequences. Fortunately, two powerful but underutilized legal strategies—thoughtful invoice itemization and leveraging the alternate sourcing rule for direct mail—can provide opportunities for producers to streamline and minimize your compliance obligations.

Why You Must Reconceive Your Billing Practices: The Bundle Trapdoor

Most state revenue departments hunt for bundle invoices where all production, prep, and delivery charges are lumped together, applying the highest possible tax burden by default. If you bundle everything, expect to charge your clients the sales tax equivalent of full retail, because the tax administrator certainly will. The result? Unnecessary tax exposure, compounded by penalties and interest if you are later assessed.

But there's a way out: itemize, itemize, itemize.

Defying Gravity with Itemized Invoices: A Minnesota Case Study

Minnesota's Fact Sheet 173 provides a roadmap for how itemizing invoice components unlocks exemptions and reduces tax due. The state excludes key component parts of marketing direct mail production—such as preparation for mailing (addressing, sorting, postage application, affixing materials) and consumables like wrap or bands—from the taxable sales, but only if each charge is specifically and separately stated on the invoice. If the price were instead bundled, which is typical for your industry, the whole bundled price would be taxable.

The component areas that, if itemized, Minnesota allows you to exclude:

- **Mail prep services** (sorting, labeling, affixing postage, inserting) are not taxable *if separately stated*.
- **Consumables used in prep** (envelopes, shrink-wrap) are *not* taxable—again, if a distinct charge appears.
- **Address printing:** If part of the production charge and not itemized, it may fall under taxed “printing services.” If broken out, it could be exempt.
- **Bundled billing equals full tax:** An all-in price labeled simply “direct mail project”—congratulations, you just taxed yourself for your client's postman, glue, and tape.
- **Postage.**

The upside is that this practice isn't just a Minnesota thing. Itemizing is the single most effective step you can take as a producer to minimize the amount of tax you need to collect from your client across every state that taxes direct mail.

Concocting the Right Potions: Minnesota's Emerald City Guide to Beloved Exemptions

- Break out every service and material on your client invoices, down to rubber bands and tabbing.
- Require your software to generate line items for each production or processing step.
- Don't forget digital deliverables: list email or digital content creation apart from physical mail prep; they may be taxed differently.

Outsmarting Madame Morrible: Alternate Sourcing Rules, Your Compliance Superpower

The next biggest source of challenge, and opportunity, focus on *where* direct mail is taxed—a diabolical challenge for producers shipping to all 50 states. Enter Rules 313 and 310.A.5: the alternate sourcing provision for direct mail, adopted precisely to untangle this Gordian knot. This rule allows direct mail producers to simplify their tax collection burden if—and only if—they handle the sourcing step correctly.

The Direct Mail Sourcing Rule (Section 313 and 310.A.5)

You've heard us emphasize this point in past articles and webinars for the Mailers Hub in the past: If the purchaser provides the seller with a direct mail form or information showing the jurisdictions where items are being delivered, the sale is sourced—and taxed—at those delivery destinations. However, if the producer *does not know* the delivery destinations, promotional direct mail can be sourced to the location from which the mail was shipped, under 310.A.5. So, when does a producer *not know*? Under SSUTA Section 313, a producer that relies on temporary access to a mailing list is able to assert it does not know the delivery destinations.

We know for so many producers, temporary access to a mailing list is common. Indeed, it is one of the biggest challenges producers face in trying to wrap their arms around their historical exposure for past years where they were not registered or collecting.

This is a dramatic risk and cost shift. The right sourcing, paired with proper itemization, can move your business from compliance nightmare to nearly audit-proof. Think about these two examples:

Example 1. A printer in St. Paul, Minnesota itemizes postage, mail prep, and consumables for a national ecommerce campaign. It also relied on temporary access to a rented mailing list that it procured on behalf of its clients. The printer can take advantage of SSUTA Section 313 and the alternate sourcing rule in Section 310.A.5., which means that ultimately only the actual printing charges (less than 40% of the overall charges) will be subject to tax in Minnesota.

Example 2. A printer in Madison, Wisconsin itemizes postage, mail prep, and consumables for a national ecommerce campaign. It also relied on temporary access to a rented mailing list that it procured on behalf of its clients. The printer can take advantage of SSUTA Section 313 and the alternate sourcing rule in Section 310.A.5., which means the charges will not be subject to tax because marketing direct mail is exempt in Wisconsin.

Example 3. A printer in St. Paul, Minnesota issued a bundled invoice to its clients. It relied on temporary access to a rented mailing list procured by its client. The printer can take advantage of SSUTA Section 313 and the alternate sourcing rule in Section 310.A.5., but in doing so 100% of its invoiced charges will be subject to tax in Minnesota because it bundled the charges.

Cautionary note – this alternate sourcing rule only applies in SSUTA member states. It does not apply in states that are not members, and those states may insist that the producer apply delivery destination sourcing. So the risk is not gone. Producers who avail themselves of the alternate sourcing and who find themselves in this situation have a recourse – asking the non-SSUTA state to give credit for taxes paid to the SSUTA state they sourced the transaction to (if taxes were paid) to avoid actual double taxation. The non-SSUTA state may push back and say tax was not actually due to that other state, and so providing credit is not mandatory.

Best Practices Checklist

- **Standardize sourcing language** in quotes, contracts, and invoices so auditors see the same process, every time.
- **Do NOT wing it:** Failing to properly document sourcing or relying on business records alone invites both under- and over-collection—and exposes your company to “gotcha” audits.

“We’ve always done it this way” is not a legal defense and triggers no mercy from state auditors.

The unpleasant reality: State revenue agents love bundled invoices, because it gives them carte blanche to assess everything at the highest applicable rate. Compounding the problem, they often bill penalties and interest on under-collected sales tax for years’ worth of invoices where substantiating documentation is absent—even for transactions that were, in fact, exempt or out of state. While yes, sales and use taxes are passed through to and remain the responsibility of your clients. The fact of the matter is, however, that if you had a legal obligation to collect the tax (e.g., if you had nexus in a jurisdiction) and did not collect the tax, the states has an unlimited amount of time to go after you, the producer. And when they do, the hit is to *your* bottom line.