**Section 2732.220 Exemption From The Definition Of Employment For Direct Sellers Of Consumer Goods**

a) For the purpose of applying Section 217(b) of the Act [820 ILCS 405/217(b)], the following terms have the meanings set forth below.

1) "Consumer product" means both tangible and intangible (e.g., a subscription for cable television service) personal property which is distributed in commerce and which is normally used for personal, family or household purposes (including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed). The term "consumer product" does not include any product used in the manufacture of another product to be distributed in commerce or any product used only incidentally in providing a service (e.g., insecticide used in a pest control service, materials used in an appliance repair business). Where the sale of the consumer product includes the sale of a service (such as installation), such installation shall be considered incidental to the sale of the consumer product, and, therefore, not effect the exemption if the value of the installation is less than 10 per cent of the cost of the total purchase price (including installation).

2) A transaction is on a "buy-sell basis" if the salesperson is entitled to retain part or all of the difference between the price at which the salesperson purchases the product and the price at which he sells the product to the consumer as part or all of the remuneration for the services.

3) A transaction is on a "deposit-commission basis" if the salesperson is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the salesperson's remuneration for services.

4) "Permanent retail establishment" is any retail business operating in a structure or facility that remains stationary for a substantial period of time to which consumers go to purchase consumer goods. Examples of these establishments are grocery stores, hardware stores, clothing stores, hotels, restaurants, drug stores and newsstands.

Example: A vendor who sells consumer products in a parking lot or other property which is near to or serving a sports arena or other amusement area pursuant to an agreement which grants to the vendor or to another entity for which the vendor provides service the right to sell consumer products on such property sells consumer products in a permanent retail establishment, regardless of whether the sale is made within a permanent structure.

b) The "written contract" requirement is not met unless the contract specifically states that the individual will not be treated as an employee for Federal tax purposes. It will not be sufficient that the contract merely state that the individual will not be treated as an employee.

c) Services provided prior to the later of the effective date or the date of execution of the written contract shall not be exempt under Section 217(b) of the Act.

d) The "substantially all the remuneration" requirement of Section 217(b) is satisfied if at least 90 per cent of the total remuneration, including advances and draws, received by the individual for the calendar year from that employing unit for performing such services is directly related to sales or other output rather than to the number of hours worked. Advance or draw shall not include monies which, pursuant to a binding written contract, must be repaid by the individual directly or indirectly (including by a debit against the individual's account with the employing unit).

(Source: Amended at 21 Ill. Reg. 9456, effective July 2, 1997)