§ 779.245 Conditions for coverage of retail or service enterprises.

(a) Retail or service enterprises may be covered under section 3(s)(1) of the prior Act or section 3(s)(1) of the amended Act although the latter is not limited to retail or service enterprises. A retail or service enterprise will be a covered enterprise under section 3(s)(1) of the amended Act if both the following conditions are met:

(1) The enterprise is “an enterprise engaged in commerce or in the production of goods for commerce.” This requirement, which is discussed in §§779.237 through 779.243, applies to all covered enterprises under the provisions of both the prior and the amended Act; and,

(2) During the period February 1, 1967, through January 31, 1969, the enterprise has an annual gross volume of sales made or business done, exclusive of excise taxes at the retail level which are separately stated, of at least $500,000; or on and after February 1, 1969, the enterprise has an annual gross volume of sales made or business done of at least $250,000, exclusive of excise taxes at the retail level which are separately stated.

(b) A retail or service enterprise will be covered under section 3(s)(1) of the Act prior to the amendments if all four of the following conditions are met:

(1) The enterprise is “an enterprise engaged in commerce or in the production of goods for commerce” as explained above in paragraph (a)(1) of this section and,

(2) The enterprise has one or more “retail or service establishments” (the statutory definition of the term “retail or service establishment” is contained in §779.24 and discussed in subpart D of this part) and,

(3) The enterprise has an annual gross volume of sales of $1 million or more, exclusive of excise taxes at the retail level which are separately stated and,

(4) The enterprise “purchases or receives goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to $250,000 or more.” (This requirement is discussed in §§779.246 through 779.253.)

(c) Sections 779.258 through 779.260 discuss the meaning of “annual gross volume of sales made or business done” and §§779.261 through 779.264 discuss what excise taxes may be excluded from the annual gross volume. Sections 779.265 through 779.269 discuss the method of computing the annual gross volume where it is necessary to determine monetary obligations to employees under the Act.

INTERSTATE INFLOW TEST UNDER PRIOR ACT

§ 779.246 Inflow test under section 3(s)(1) of the Act prior to 1966 amendments.

To come within the scope of section 3(s)(1) of the prior Act, the enterprise, in addition to the other conditions, must purchase or receive goods for resale that move or have moved across State lines (not in deliveries from the reselling establishment) which amount in total annual volume to $250,000 or more. To meet this condition, it must be shown that (a) the enterprise purchases or receives goods for resale (§779.248), (b) that such goods move or have moved across State lines (§779.249), and (c) that such purchases and receipts amount in total annual volume to $250,000 or more (§779.253). Enterprises which do not meet this test may be covered under section 3(s)(1) of the present Act, which contains no interstate inflow requirement.

§ 779.247 “Goods” defined.

The term “goods” as used in section 3(s) of the prior and amended Act is defined in section 3(i) of the Act. The statutory definition is quoted in §779.14, and is discussed in detail in part 776 of this chapter.