

**LR5988**

November 24, 2009

Dear Applicant:

This is a letter ruling issued by the Director of Revenue under Section 536.021.10, RSMo, and Missouri Code of State Regulations 12 CSR 10-1.020, in response to your letter dated September 23, 2009. You requested a renewal of letter ruling 3492, issued on November 16, 2006.

The facts you presented in the initial letter and modified by your renewal request are summarized as follows:

Applicant pays for the printing of a publication that it distributes free of charge. The publication is published monthly. The total number of copies printed per month is 24,000. Ten thousand (10,000) of the copies are mailed to readers. Of this number approximately 500 of the readers pay \$21.50 per year for direct mailing. The charge covers postage and handling. The other copies are sent free to the readers. The remaining copies are delivered to approximately 300 drop points, such as banks, grocery stores, restaurants, etc. The publication is made available to the general public free of charge at these drop points.

The publication, which is printed and formatted in sheet form using newsprint, contains articles of general interest to the public and reports on current events.

**ISSUE 1:**

What is the definition of a newspaper?

**RESPONSE 1:**

12 CSR 10-3.112 provides the following guidance for determining when a publication is a "newspaper":

(1) In order to constitute a newspaper, the publication must contain at least the following elements: it must be published at stated short intervals, usually daily or weekly; it must not, when its successive issues are put together, constitute a book; it must be intended for dissemination of news to the general public; it must contain matters of general interest and reports of current events; and it must generally be in sheet form.

Based on the facts presented, Applicant publishes a newspaper.

**ISSUE 2:**

Does Section 144.030.2(8), RSMo, exempt from sales/use taxes the purchase of newsprint, ink and other enumerated articles of tangible personal property used to produce newspapers?

**RESPONSE 2:**

Yes. The purchase of newsprint, ink and other articles of tangible personal property enumerated in Section 144.030.2(8), RSMo, used to produce newspapers are exempt from the imposition of sales/use taxes whether the newspaper is sold at retail or given away free.

Section 144.030.2(8), RSMo, provides an exemption from sales/use tax on the purchase of:

Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public.

The only requirements for qualification for the exemption are set forth in the statutes. A plain reading of the statute shows the absence of any requirement that the newspapers be sold in order for the exemption to apply. Therefore, purchases of newsprint, ink, etc. for use "in producing newspapers published for dissemination of news to the general public" are exempt under Section 144.030.2(8), RSMo.

**ISSUE 3:**

Is Applicant subject to sales/use tax on its purchases of newspapers printed and sold to it by an independent printer?

**RESPONSE 3:**

Yes. Applicant's purchases of printed copies of its publication are subject to sales/use tax. The exemption set forth in Section 144.030.2(8), RSMo, applies to the purchase of the specified items of tangible personal property only. Under the facts presented, the purchaser of these items of tangible personal property is the printer. Therefore, the printer's purchases are exempt, but Applicant must pay sales tax on the sale price of the printed newspapers.

This letter ruling is binding upon the Department of Revenue with respect to Applicant for three (3) years from the date of this letter and is subject to changes in statutes by the General Assembly and to changes in interpretation of law by the courts or administrative tribunals. If a change occurs, the taxpayer that relies upon an outdated interpretation may be subject to additional taxes plus interest and penalties, which may be imposed prospectively from the date of the change. For this reason, the interpretation set forth should be reviewed on a regular basis. Please note that any change in or deviation from the facts as presented will render this ruling inapplicable.

Should additional information be needed, please contact Senior Counsel Ron Clements, General Counsel's Office, Post Office Box 475, Jefferson City, Missouri 65105-0475 (phone 573-751-0961), or me.

Sincerely,

Alana M. Barragán-Scott