

LR 6137

March 5, 2010

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 December 29, 2009.

The facts presented in your letter ruling request are summarized as follows:

Applicant is a Missouri corporation. Applicant is a contract printer that prints and prepares printed materials for its Missouri and out-of-state customers at Applicant's business location in Missouri. The printed materials are advertising media that are mailed to the homes or businesses located within and without Missouri.

A customer usually places an order by telephone, Internet, or purchase order confirming FOB-Buyer's designated destination. Applicant's customer provides a mailing list and designates the United States Postal Service as the carrier to deliver the materials. Applicant either delivers the material to the United States Post Office or a United States Post Office carrier picks up the materials at the Applicant's location.

Applicant sorts the printed materials by zip code, city, and state for delivery. Applicant saves the United States Postal documents and receipts. Customers are invoiced with FOB-Buyer's designated destination and sales taxes are calculated and charged for pieces mailed into Missouri and other states accordingly.

Applicant assembles the following documents for each sale of printed materials:

1. Customer invoice;
2. Billing list that indicates how many items were mailed to each state;
3. Sales tax calculation sheet that indicates the sales tax rates that were collected for each item;
4. Mailing list that indicates the city, state, zip code, and number of items mailed to such city, state, and zip code;
5. Postage statement; and
6. A USPS Qualification Report that indicates the destination of the mailed printed materials and the quantity of such materials according to the destination.

ISSUE 1:

Are Applicant's sales of printed materials for delivery by the United States Post Office into other states subject to Missouri sales tax?

RESPONSE 1:

No. Applicant's sales of printed materials for delivery by the United States Post Office into other states are not subject to Missouri sales tax.

Section 144.020.1, RSMo, imposes a sales tax for "the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state."

Missouri Regulation 12 CSR 10-113.200(3)(B) provides, "Unless otherwise agreed by the parties, when a Missouri seller delivers tangible personal property to a third-party common or contract carrier for delivery to an out-of-state location, title does not transfer in Missouri and the sale is not subject to Missouri sales tax."

Section 144.020, RSMo, imposes sales tax on the sale of tangible personal property that is sold in Missouri when the title to the property transfers to the buyer in Missouri. Applicant prints and prepares printed materials

for its Missouri customers and out-of-state customers. Applicant mails the letters directly to the customer's recipients located outside of Missouri and title to the printed materials does not transfer in Missouri. Therefore, Applicant's sales of printed materials for delivery by the United States Post Office into other states are not subject to Missouri sales tax.

ISSUE 2:

Are the documents Applicant assembles for each sale of printed materials, listed 1 through 6, sufficient to establish which sales are subject to Missouri sales tax?

RESPONSE 2:

Yes. The documents Applicant assembles for each sale of printed materials, listed 1 through 6, are sufficient to establish which sales are subject to Missouri sales tax.

Missouri Regulation 12 CSR 10-3.168(1) provides, "Transactions which are deductible under the sales tax law can be deducted only if the transaction is documented so as to be capable of verification on audit."

Section 144.020, RSMo, imposes sales tax on the sale of tangible personal property that is sold in Missouri when the title to the property transfers to the buyer in Missouri. Applicant is required to document each sales transaction so the Director may verify whether Applicant's sales were transactions in which the title to the property transferred in Missouri or were transactions in which the title to the property transferred outside of Missouri. Applicant's assembled documents, listed 1 through 6, identify each printed material and the destination of each item. Therefore, the documents Applicant assembles for each sale of printed materials, listed 1 through 6, are sufficient to establish which sales are subject to Missouri sales tax.

This letter ruling is binding upon the Department of Revenue with respect to the Applicant for three (3) years from the date of this letter and is subject only to statutory changes by the General Assembly and to changes in the interpretation of law by the courts or administrative tribunals. If a change occurs, the taxpayer who relies upon an outdated interpretation may be subject to additional taxes, interest and penalties, which may be imposed prospectively from the date of the change. For this reason, the interpretation set forth above 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 Associate Counsel Amy Bartolomucci, General Counsel's Office, Post Office Box 475, Jefferson City, Missouri 65105-0475 (phone 573-751-0961), or me.

Sincerely,

Alana M. Barragán-Scott