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GOVERNOR



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December 14, 2007

Mr. Robert B. Niekamp  
Treasurer  
Electronics Supply Co., Inc.  
4100 Main Street  
Kansas City, MO 64111

Dear Mr. Niekamp:

This is a letter ruling issued by the Director of Revenue pursuant to Section 536.021.10, RSMo, and Missouri Code of State Regulations 12 CSR 10-1.020 in response to your letter dated November 2, 2007.

The facts as you presented them in your letter are summarized as follows:

Electronics Supply Co., Inc. ("Applicant") is a Missouri retailer making sales to Missouri customers. Applicant collects sales tax on shipping and handling charges on products shipped to customers in Missouri. The shipping charge includes the freight charge from the common carrier (UPS, FedEx, DHL, U.S. Post Office) and the handling charge includes costs of packaging material and labor. The packaging material consists of the box in which the product is placed and any packing material (plastic wrap or "peanuts") needed to protect the product.

Applicant's point-of-sale software cannot separate the shipping charge from the handling charge. Applicant bills its customer a single amount for both charges designated as "S & H" on its invoice.

**ISSUE:**

Should Applicant collect sales tax on its shipping and handling charges on articles delivered to Missouri purchasers?

**RESPONSE:**

Applicant should collect sales tax on its shipping and handling charges on articles delivered to Missouri purchasers.

The general rule is that separately stated shipping charges are not subject to sales or use tax. However, handling charges, including both the packaging materials and the labor charges, are part of the sales price of the item being purchased and are subject to tax. If handling charges are included with shipping charges (i.e., “freight and handling” or “shipping and handling”), the full amount is subject to sales tax. Additionally, if the purchaser is required to pay for the shipping service as part of the sales price of tangible personal property, the entire sales price, including the freight, shipping, and handling charges, is subject to use tax. *See Missouri Code of State Regulations 12 CSR 10-103.600.*

To determine whether a shipping charge is included in the purchase price of the tangible personal property, there are several things to consider. Although the following are not all-inclusive, they do provide a starting point in making the determination.

1. Do the parties intend for freight or delivery to be separate from the sale price of the tangible personal property?
2. Are the freight and/or shipping and handling charges separately stated on the invoice?
3. Does title pass prior to shipping? If so, shipping is not part of the sale and not subject to sales or use tax.
4. Does the purchaser have the option of choosing the type of shipping? (For instance, customer pickup, Federal Express delivery, or US Postal Service delivery).

Based upon the facts provided by Applicant and a sample customer invoice, Applicant does not separately state the shipping charge. Applicant should collect sales tax on the entire “S & H” charge.

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.

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

Sincerely,

A handwritten signature in cursive script that reads "Julie A. Allen". The signature is written in black ink and is positioned above the typed name.

Julie A. Allen, CPA, PMP

JAA:RC

LR4393/08-052