

PRIVATE TAXPAYER RULING LR03-006

May 27, 2003

This private taxpayer ruling is in response to your letter of February 14, 2003. You request the Department to rule that your client . . . ("Taxpayer") is subject to neither the state transaction privilege tax under the publication classification nor [City] privilege license tax on amounts paid to newspaper carriers as "delivery credits," "route allowances," and "bundle drop credits" for delivery of its publication . . . ("Newspaper").

The following are facts as presented by Taxpayer in its request for a private taxpayer ruling:

[Taxpayer] publishes [Newspaper], the daily Newspaper serving . . . County and the surrounding area. [Newspaper] is distributed to individuals living in . . . Arizona as well as to individuals living in . . . California, with the substantial portion of its subscribers residing in . . . City

The primary means by which [Taxpayer] distributes [Newspaper] to individual subscribers is via newspaper carriers . . . whose compensation is based upon the difference between what a subscriber pays for home delivery and what the [carrier] must pay [Newspaper] for the newspapers. As an example, a subscriber pays \$10.50 per month for home delivery of [Newspaper] and [Newspaper] sells the paper to the [carrier] for \$9.50. The [carrier] retains \$1.00 as his or her compensation for delivering the papers. [Newspaper] reports as its subscription income on its monthly sales tax returns the amount of \$9.50, which it has received from the [carrier]. In addition to these amounts retained by . . . carriers as compensation for delivery of newspapers (referred to as "delivery credits"), [Taxpayer] pays an additional amount to certain carriers for delivering the publication to new, difficult, or otherwise unprofitable routes. These payments are referred to as "route allowances."

In addition to deliveries to individual subscribers, [Taxpayer] also delivers [Newspaper] to newspaper racks and also to various retailers for resale. . . . When these deliveries are made by [carriers], [Taxpayer] compensates the [carrier] for deliveries via a "bundle drop credit."

Your Position

Payments or credits Taxpayer makes to carriers delivering Newspaper as delivery credits, route allowances, and bundle drop credits are excluded from taxable subscription income under Arizona Revised Statutes ("A.R.S.") § 42-5065(C) and [City] Model City Tax Code ("_.M.C.T.C.") § __-435(c).

Conclusion and Ruling

The newspaper carrier deduction from Taxpayer's taxable subscription income allowed for Arizona transaction privilege tax pursuant to A.R.S. § 42-5065(C) and Arizona Administrative Code R15-5-1302 differs from the newspaper carrier deduction allowed for [City] privilege license tax under _.M.C.T.C. § __-435(c). Generally, any payments and credits Taxpayer offers to its carriers for delivering Newspaper are deductible from taxable subscription income under the state transaction privilege tax. Under the _.M.C.T.C., however, only payments and credits Taxpayer offers to its carriers for delivering Newspaper within Arizona may be deducted from taxable subscription income.

The following ruling is given based on the facts presented in your request:

The Department rules that for the purposes of Arizona transaction privilege tax, an amount paid by Taxpayer as a delivery credit, route allowance, or bundle drop credit for either an in-state or out-of-state delivery of Newspaper may be deducted from taxable subscription income.

Nevertheless, for the purposes of [City] privilege license tax, an amount paid by Taxpayer as a delivery credit, route allowance, or bundle drop credit may be deducted from taxable subscription income only if the delivery of Newspaper that is associated with the payment or credit occurs within Arizona. A delivery credit, route allowance, or bundle drop credit may not be deducted from subscription income that is subject to city privilege license tax if the delivery of Newspaper occurs outside the state.

The conclusion of this private taxpayer ruling does not extend beyond the facts presented in your letter dated February 14, 2003.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determinations are subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the Department's making of an accurate determination, this taxpayer ruling

shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law, or notification of a different Department position.

The determinations in this private taxpayer ruling are only applicable to the taxpayer requesting the ruling and may not be relied upon, cited, nor introduced into evidence in any proceeding by a taxpayer other than the taxpayer who has received the private taxpayer ruling.