



Janet Napolitano
Governor

J. Elliott Hibbs
Director

PRIVATE TAXPAYER RULING LR04-006

June 22, 2004

This private taxpayer ruling is in response to your letter dated July 28, 2003, as updated on February 10, 2004 and March 2, 2004, in which you requested a private taxpayer ruling relating to the Arizona transaction privilege tax ("TPT") consequences to your client . . . ("Taxpayer"), which has employees working in Arizona, for providing health and medical records to Arizona customers.

Your letter also requests a ruling concerning the possibility of an exemption from TPT or use tax for the electronic equipment Taxpayer uses in its activities. Pursuant to Arizona Revised Statutes ("A.R.S.") § 42-2101, the Department may issue private taxpayer rulings to taxpayers and potential taxpayers on request. Based on the information provided in your request and since TPT is levied on the vendor, not the purchaser, Taxpayer is not liable for TPT with respect to its acquisition of its scanners, laptop computers, and similar electronic equipment used in its record production activities. Therefore, this private taxpayer ruling is limited to the TPT taxability of Taxpayer's record production activities described in your letter and the use taxability of Taxpayer's purchase of equipment from out-of-state vendors for use in its record production activities.

Statement of Facts:

Your July 28, 2003 letter presents the facts relating to Taxpayer's business as follows:

Taxpayer provides health and medical record processing services to attorneys, insurance companies, governmental entities, patients, physicians, hospitals, and other requesting parties . . . ("Customers"). Taxpayer's services are performed by Taxpayer's employees utilizing equipment (*i.e.*, laptop computers, scanners, etc.) provided by Taxpayer. These services are performed by Taxpayer's employees from hospitals, physicians' offices, or employees' home offices[,] which are located in the state of Arizona.

In practice, upon Taxpayer[']s receiving a request from [C]ustomers for a copy of a patient's health and medical records . . . ("Information"), Taxpayer will visit the hospital, physician's office, or other location where the particular [I]nformation is located. Upon arriving at the hospital, physician's office, or similar location where the particular [I]nformation is located, employees may facilitate the [C]ustomer's request by . . . one of two methods.

PRIVATE TAXPAYER RULING LR04-006

June 22, 2004

Page 2

METHOD ONE

Method one encompasses Taxpayer utilizing a laptop computer, scanner, or other similar electronic medium to electronically “scan” and save the requested [I]nformation. Upon securing the scanned [I]nformation, the employee electronically transmits the scanned [I]nformation to Taxpayer’s facility in . . . , Georgia. When the [I]nformation is received at Taxpayer’s Georgia facility, the [I]nformation is processed and, depending on the [C]ustomer’s election, either an electronic version of the [I]nformation is transmitted to the [C]ustomer or a hardcopy version is printed and mailed to the [C]ustomer.

METHOD TWO

Method two encompasses an employee visiting the hospital, physician’s office, or location where the medical records and related information are located to physically photocopy the requested [I]nformation. Upon the requested [I]nformation being photocopied, the employee will subsequently mail the requested [I]nformation to the [C]ustomer from the hospital, physician’s office, or location where the medical records and related information are located.

INVOICE COMPONENTS

Upon providing any of the above services, . . . Taxpayer invoices the [C]ustomer a separately stated charge for the requested service. . . . [The following are V]arious possible components of a typical transaction . . . and an explanation of each component.

- Basic/Retrieval Fee: A separately stated flat fee charged for locating the records.
- Quickview Delivery Fee: A separately stated fee to electronically access and view the contents of the delivered [I]nformation via the Internet.
- Per Page Fee: A separately stated fee for each page of the medical record that is either scanned or photocopied.
- Postage Fee: A separately stated fee for the postage associated with mailing a hardcopy of the individual’s medical record. This fee does not contain a markup for profit.
- Handling Fee: A separately stated charge, distinct from the charge for postage, associated with mailing a hardcopy of the individual’s medical record.
- E-Disclosure Fee: A separately stated fee to track and confirm the status of the [I]nformation being delivered.

PRIVATE TAXPAYER RULING LR04-006

June 22, 2004

Page 3

- Certification Fee: A separately stated fee to certify the [I]nformation.
- Notarization Fee: A separately stated fee to notarize the [I]nformation.
- Deposition Fee: A separately stated fee to affirm that the [I]nformation is suitable to be utilized in a legal deposition.
- Docustore Fee: A separately stated fee to electronically store the [I]nformation.

You further indicated in a February 10, 2004 e-mail to this office that “[a]ll of the charges listed on the invoice are outlined in the ruling request,” such that Taxpayer never lists separate charges for paper, diskette, CD, or other media on which it transfers the requested information to a customer. Taxpayer also noted in a March 2, 2004 e-mail forwarded to this office that “[t]he average cost of the tangible property would be the actual cost of a sheet of paper for each page of the record being copied. If the record is delivered via QuickView, then the tangible property (paper) doesn’t even exist. The cost is very minimal. . . . The average amount of an invoice across the board is about \$35.”

Issues:

1. What are the TPT consequences for each of Taxpayer’s above-described activities performed for Arizona customers?
2. Is Taxpayer’s use of the scanners, laptop computers, and similar electronic equipment to perform the above-described activities exempt from Arizona use tax under A.R.S. § 42-5159(B)(1) as machinery or equipment used directly in processing operations?

Your Position:

You do not articulate a position in your request.

Conclusion and Ruling:

On the basis of the information provided, Taxpayer is engaged in business activities subject to Arizona transaction privilege tax under the job printing classification. Taxpayer copies or duplicates materials that are retrieved from the customer or at the customer’s behest. Taxpayer also electronically stores some customer-requested information (*i.e.*, information for which the customer pays the Docustore fee) and provides copying or duplication service on customer-provided or customer-requested material whereby it prints or copies the stored information for the customer. Both types of activities are forms of duplication and copying that are subject to tax under the job printing classification. With regard to fees charged to a customer that are incurred after the copying or duplication has been performed by Taxpayer, as explained in *Arizona Transaction Privilege Tax Ruling TPR 94-2*, post-press activities (*e.g.*, binding, mailing) are included in the business of job printing.

PRIVATE TAXPAYER RULING LR04-006

June 22, 2004

Page 4

Accordingly, the Department rules that:

1. Taxpayer's gross proceeds of sales or gross income is generally subject to Arizona transaction privilege tax under the job printing classification, except where an exemption provided under A.R.S. § 42-5066(B) applies.
2. Based on the facts provided, Taxpayer's purchases of scanners, laptop computers, and similar electronic equipment in providing its services are exempt from Arizona use tax under the A.R.S. § 42-5159(B)(1) exemption because they are used directly in Taxpayer's job printing operations and not used: (a) purely as office equipment or (b) in Taxpayer's selling or distributing activities, pursuant to A.R.S. § 42-5159(C)(3) and (4).

The conclusions in this private taxpayer ruling do not extend beyond the facts presented in your correspondence dated July 28, 2003, February 10, 2004 and March 2, 2004 respectively.

This response is a private taxpayer ruling and the determinations herein are 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 applicable only 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.