
DEPARTMENT OF STATE REVENUE
Revenue Ruling #2008-02 ST
February 11, 2008

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ISSUE

Sales/Use Tax – Sale of K-12 School Yearbooks

Authority: [IC 6-2.5-8-8](#), [IC 6-2.5-5-25](#), [45 IAC 2.2-5-55](#), [IC 6-2.5-5-26](#), [45 IAC 2.2-5-27](#)

The taxpayer requests the Department to rule whether the independent agency is required to include use tax on the price of the yearbooks sold to public school purchasers, parochial school purchasers, not-for-profit private schools purchasers and other not-for-profit organization purchases.

STATEMENT OF FACTS

The taxpayer is a manufacturer of school yearbooks. The school contracting for publication is responsible for the content of the yearbook. As this is a purchase agreement, the school is also responsible for the sale and delivery of the yearbook to the student or other purchaser.

For an additional fee, a school may also contract with the taxpayer for three optional programs for selling the yearbooks; these three optional programs also give purchasers alternative payment methods. The three optional programs are (1) a school order day, (2) a home order mailing, and (3) a website and call center for taking orders. Purchasers (typically parents) ordering through the optional programs may be billed for purchases at a later date or they may pay by credit cards, make installment payments, or pay by check. Yearbooks ordered through the optional programs are delivered to the school for distribution, the same as yearbooks not ordered through the programs. The contracts or enrollment forms for each of the three optional programs state the following: "I understand that the taxpayer or other third parties will act on behalf of the school to bill students for yearbooks and collect funds from them in accordance with the pricing specified above."

The taxpayer has contracted with another party or independent agency to develop and service the website and call center for the school yearbook sales. The independent agency also provides payment processing. Payment processing by the independent agency includes billing services for books ordered through any one of the three optional programs.

The order forms and invoices used by the three optional programs list the name of the school. The return address for payments lists the name of the school, care of the order center. Persons placing orders through the internet site must enter a school identification number to access yearbooks sales information for a particular school. The purchaser is directed to make checks payable to the order center.

If the school chooses one of these three options, the taxpayer contracts with the agency on behalf of the school; the school dictates to the agency the price to charge for the yearbook. When the school is invoiced for the yearbooks, the per-unit charge paid by the taxpayer to the agency for their assistance in facilitating the orders is passed through to the school; i.e., included the invoice to the school.

As can be seen, the taxpayer merely serves as the go-between for the school and the agency. If, in fact, the total of the payments received directly from the parents (i.e., the retail sales price as dictated by the school to the agency) happen to exceed the total amount of the taxpayer's contract with the school (i.e., the wholesale cost of all the books) the school receives a refund of the overage.

In the past, the taxpayer instructed the third party agency to include use tax on the preordered yearbook invoices. The taxpayer has timely remitted all use tax collected through the orders generated by the third party agency.

DISCUSSION

Here, the primary issue, although not questioned by the taxpayer, is whether the taxpayer is responsible for collecting sales/use tax from public schools on the sale of yearbooks to the public schools. Whether the independent agency invoices the public school's purchasers for sales/use tax is a secondary issue.

These issues are directly related. The applicable statutory cite that deals with these issues is [IC 6-2.5-8-8](#). [IC 6-2.5-8-8](#) provides that a seller is not required to collect sales/use tax from a purchaser that issues the seller a proper Indiana exemption certificate. A proper Indiana exemption certificate is one that is issued on forms and in the manner prescribed by the Department. When the taxpayer receives a proper Indiana exemption certificate from a public school the taxpayer is not required to collect sales/use tax from the public school. It is clear the purchaser has the burden of the decision of whether tax is to be collected or not.

In general, public schools, parochial schools, not-for-profit private schools and other not-for-profit organizations can purchase the yearbooks exempt from sales/use tax to the extent these entities fall within the ambit of [IC 6-2.5-5-25](#), [45 IAC 2.2-5-55](#) and Sales Tax Information Bulletin #32 (Bulletin #32 is not applicable to other not-for-profit organizations).

The sale of yearbooks by a public school, through an independent agency, is an exception to [IC 6-2.5-8-8](#) in

that the seller is required to determine the taxability of a purchase. Individuals, other than those that own a business enterprise and are registered as a retail merchant, are not authorized to issue exemption certificates. This means the seller must determine whether to collect sales/use tax.

The taxpayer and the independent agency must be directed by the public school (seller) whether the invoices should include sales/use tax or not. The public schools, parochial schools, not-for-profit private schools and other not-for-profit organizations are subject to the requirements and stipulations found in [IC 6-2.5-5-26](#), [45 IAC 2.2-5-27](#) and Sales Tax Information Bulletin #32 (Bulletin #32 is not applicable to other not-for-profit organizations). To the extent the entities fall within the ambit of the above authority the sale by these entities of yearbooks would not be subject to sales/use tax.

It should be noted, also, that each seller entity is required to remit the sales/use tax collected, if any, under its own Tax Identification Number.

RULING

The Department rules the taxpayer can sell yearbooks to public schools, parochial schools, not-for-profit private schools and other not-for-profit organizations exempt from sales/use tax upon the receipt of a proper Indiana exemption certificate. Further, whether each entity can sell yearbooks tax exempt will be determined by each entities' eligibility under the applicable Indiana statutes, regulations and Sales Tax Information Bulletins.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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