

DEPARTMENT OF STATE REVENUE
Revenue Ruling #2008-06 ST
October 9, 2008

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ISSUES

Sales/Use Tax – Delivery and Mailing Services

Authority: [IC 6-2.5-4-1\(e\)](#), [IC 6-2.5-2-1](#), [IC 6-2.5-1-5](#), [IC 6-2.5-1-2](#), [IC 6-2.5-1-1\(a\)](#), *Frame Station, Inc. v. Indiana Dep't of State Revenue*, 771 N.E.2d 129 (Ind. Tax Ct. 2002).

The taxpayer asks the Department to rule on the following issues:

1. Are mailing services which are distinct and separate from the print manufacture process and which are provided for a separately stated price part of the sales price of printed material as "services necessary to complete the sale"?
2. Are delivery services provided by the USPS to Taxpayer's customer, in exchange for postage payment, taxable as part of the sales price of printed materials?

STATEMENT OF FACTS

Taxpayer provides printing and mail processing services to Customer. Customer contracts with Taxpayer to print materials, which have no monetary value to the recipients, and mail them to recipients both inside and outside of Indiana. The mailing services Taxpayer provides are: folding and inserting into the envelope, addressing the envelope, sorting, and other mailing services necessary to for the printed material to be accepted as mail by the United States Postal Service ("USPS"). As part of the mailing service, Taxpayer applies postage to each piece of mail, utilizing the Taxpayer's permit, meter, or stamps.

DISCUSSION #1

Services which are separately stated are typically not subject to taxation unless they are considered a unitary transaction as provided in [IC 6-2.5-1-1\(a\)](#). Therefore, Taxpayer's first argument is that the services provided in the transaction are distinct and separate from the print manufacturing process and are provided for a separately stated price. While the invoice does show a breakdown of each component of the total charge, Taxpayer's situation is one in which the phases of the transaction are not distinct and separate. In order to carry out the transaction, Taxpayer must first print the materials then use those same materials for the next phase of the transaction, which includes folding and inserting the printed material into envelopes. If the services were distinct and separate, Taxpayer would be able to perform the services required by the contract without first having to print the materials that are to be used in the folding and inserting services. Therefore, the services provided are subject to taxation as a retail unitary transaction pursuant to [IC 6-2.5-1-1\(a\)](#), [IC 6-2.5-1-2](#), [IC 6-2.5-4-1\(e\)](#), and [IC 6-2.5-2-1](#).

The Indiana Tax Court noted in *Frame Station, Inc. v. Indiana Dep't of State Revenue*, 771 N.E. 2d 129, 131 (Ind. Tax Ct. 2002), that [IC 6-2.5-4-1\(e\)](#) "permits the imposition of sales tax on otherwise non-taxable services when the services are performed with respect to property prior to the transfer of the property to the transferee."

DISCUSSION #2

Taxpayer first argues that postage is not a delivery charge. [IC 6-2.5-1-5\(a\)](#) states that gross retail income is money received in a retail transaction without any deduction for delivery charges. The statute also provides that "delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing." [IC 6-2.5-1-5\(a\)](#). Therefore, postage is a delivery charge for purposes of calculating gross retail income, and is subject to gross retail income tax as provided by [IC 6-2.5-2-1](#).

Taxpayer argues that the sale is completed and its customer takes ownership of the materials before they are delivered to the USPS, and that Taxpayer should therefore not be required to pay tax on gross income from the postage and delivery income. However, in *Frame Station, Inc. v. Indiana Dep't of State Revenue*, 771 N.E. 2d 129, 131 (Ind. Tax Ct. 2002), the Indiana Tax Court stated that "transfer of property occurs when the buyer (1) agrees to buy property from a seller, (2) pays the purchase price, and (3) takes ownership and possession of the property." Taxpayer's customer, therefore, does not take ownership of the tangible personal property as Taxpayer suggests for two reasons. First, Taxpayer's customer has not yet paid the purchase price because the invoice is not sent to the Taxpayer's customer until after the postage is applied and the materials are taken to the USPS. Second, Taxpayer's customer may contractually take ownership of the materials while the material is still under Taxpayer's control; however, Taxpayer's customer never takes physical possession of the tangible personal property at any time. Because no transfer of property took place in this retail unitary transaction, the postage and delivery services rendered are taxable as part of the unitary transaction.

Taxpayer also argues that the Taxpayer acts as its customer's agent in remitting funds to the government for postage. However, according the documentation the Taxpayer provided, postage was applied using a meter. All

entities using postage meters must have a license from the USPS. In this situation, Taxpayer is the licensed party with regard to the postage meter. Taxpayer cannot truly be acting as an agent for the customer when the same license is used to meter mail for multiple customers and postage is added to the meter in anticipation of various customers using the Taxpayer's services. Adding postage to the materials is a service that Taxpayer performs as part of a unitary transaction.

RULING #1

Are mailing services which are distinct and separate from the print manufacture process and which are provided for a separately stated price part of the sales price of printed material as "services necessary to complete the sale"?

The Department rules that because the Taxpayer's services are not distinct and separate from the rest of the overall retail transaction, the transaction is a retail unitary transaction. Therefore, separately stating the prices of the services and the printing does not exempt the services portion of the transaction from retail sales taxation.

RULING #2

Are delivery services provided by the USPS to Taxpayer's customer, in exchange for postage payment, taxable as part of the sales price of printed materials?

The Department rules that the delivery charge includes postage and remains part of the taxable retail unitary transaction because no transfer of property to the Taxpayer's customer took place. Taxpayer was not acting as its customer's agent in applying metered postage because the Taxpayer holds the postage meter license and adds funds to the meter in anticipation of providing services to its customers.

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.

Posted: 10/29/2008 by Legislative Services Agency
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