

DEPARTMENT OF STATE REVENUE

Revenue Ruling #2013-09ST
January 31, 2014

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ISSUES

Sales Tax – Exemption for property used to repair an aircraft or an aircraft's avionics system.

A company ("Taxpayer") is seeking an opinion as to whether it is eligible to utilize the sales tax exemption found in I.C. 6-2.5-5-46.

Authority: [IC 6-2.5-5-46](#).

STATEMENT OF FACTS

Taxpayer provides the following facts regarding its request for a revenue ruling. Taxpayer, which is located in Indiana, is in the business of inspecting, repairing, and modifying aircrafts. Taxpayer requests a ruling as to whether or not the employment of individuals that are themselves FAA-certified brings Taxpayer as an entity within the scope of the sales tax exemption provided for by I.C. 6-2.5-5-46. Taxpayer further provides:

As an entity, Taxpayer itself is not a repair station certified by the Federal Aviation Administration (hereinafter "FAA"). However, Taxpayer employs one or more individuals who are themselves certified by the FAA.

DISCUSSION

I.C. 6-2.5-5-46 provides:

(a) Transactions involving tangible personal property (including materials, parts, equipment, and engines) are exempt from the state gross retail tax, if the property is:

- (1) used;
- (2) consumed; or
- (3) installed;

in furtherance of, or in, the repair, maintenance, refurbishment, remodeling, or remanufacturing of an aircraft or an avionics system of an aircraft.

(b) The exemption provided by this section applies to a transaction only if the retail merchant, at the time of the transaction, possesses a valid repair station certificate issued by the Federal Aviation Administration under 14 CFR 145 et seq. or other applicable law or regulation. (Emphasis added.)

14 CFR 145 et seq. deals with, inter alia, the process through which a repair station must go to become certified by the FAA. In order to be certified by the FAA, an applicant repair station must endure a rather rigorous process, beginning by first submitting an application for certification and rating including an FAA-approved repair station manual, an FAA-approved quality control manual, a list of each make and model for which the station wishes to be certified to service, a comprehensive organizational chart, a description of the housing and facilities, and an FAA-approved training manual. 14 CFR sec. 145.51(a). Once all of that documentation has been provided, an FAA representative then visits the repair station for a comprehensive inspection of the equipment, personnel, technical data, housing, and facilities. 14 CFR sec. 145.51(b). Only once that inspection is passed is the certification and rating granted to the repair station in question. Clearly, the intent of this set of regulations is to ensure the overall quality of the entity as a whole prior to it receiving certification and grading.

It is no accident that the General Assembly, in providing the sales tax exemption herein under consideration, restricted the exemption to be available to only those retail merchants that hold a valid repair station certificate. The very language of the statute does not at all concern itself with whether or not individual employees are themselves certified. That an individual working for an aircraft repair station is certified does not at all speak to the overall quality of the repair station itself. Rather, the statute speaks in terms of whether the station itself is certified by the FAA. Because of the extensive process through which an entity must go to become certified by the FAA, restricting the statute's applicability to such entities by explicit reference to 14 CFR 145 et seq. seems to be an implicit statement by the General Assembly that only those stations that are, as an entity, complying with these

rigorous standards can benefit from this exemption. Accordingly, because Taxpayer is not, as an entity, certified by the FAA pursuant to 14 CFR 145 or other applicable law or regulation, it may not benefit from the sales tax exemption found at I.C. 6-2.5-5-46.

RULING

It is not enough that an employee of an entity is certified by the FAA. I.C. 6-2.5-5-46 is, by its plain terms, a sales tax exemption available only to entities that are themselves certified by the FAA pursuant to 14 CFR 145 et seq. or other applicable law or regulation. Because Taxpayer in this instance is not so certified, it may not utilize the sales tax exemption found at I.C. 6-2.5-5-46.

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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