

## DEPARTMENT OF STATE REVENUE

Revenue Ruling #2015-02ST  
June 3, 2015

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## ISSUE

Sales & Use Tax - Purchases by Nonprofit Corporation

A company ("Taxpayer") is seeking an opinion as to whether its purchase, storage, use, or consumption of tangible personal property and services used in blood testing activities and related scientific research is subject to the Indiana state gross retail (sales) or use tax.

Authority: [IC 6-2.5-2-1\(a\)](#); [IC 6-2.5-3-2\(a\)](#); [IC 6-2.5-3-4\(a\)\(2\)](#); [IC 6-2.5-5-21\(b\)\(1\)](#); [IC 6-2.5-5-21\(d\)](#); [IC 6-2.5-5-25\(a\)](#).

## STATEMENT OF FACTS

Taxpayer provides the following facts regarding its request for a revenue ruling. Taxpayer is an Arizona nonprofit corporation that (i) tests donor-provided blood, plasma, tissue, organs, and other components of the human body for public safety, and (ii) performs biomedical and scientific research related to the testing of these components. Taxpayer tests blood, plasma, tissue, organs, and other components of the human body sent to it by collection organizations ("blood banks") such as community blood banks and hospital blood banks that collect blood from donors. In order to perform the tests, Taxpayer must purchase specialized blood testing equipment, reagents, and supplies that have been approved by the Food and Drug Administration.

The Internal Revenue Service has determined that Taxpayer is a nonprofit organization exempt from federal income tax under I.R.C. § 501(c)(3). Furthermore, Taxpayer has been classified as a public charity under I.R.C. § 509(a)(4). Taxpayer is an organization organized and operated exclusively for the testing for public safety.

Taxpayer requests that the department rule whether its purchase, storage, use, or consumption of tangible personal property and services, including, but not limited to specialized blood testing equipment, reagents used for blood testing, and other supplies used for blood testing and related scientific research, is exempt from the Indiana state gross retail tax and use tax.

## DISCUSSION

[IC 6-2.5-2-1\(a\)](#) provides:

An excise tax, known as the state gross retail tax, is imposed on retail transactions made in Indiana.

[IC 6-2.5-3-2\(a\)](#) provides:

An excise tax, known as the use tax, is imposed on the storage, use, or consumption of tangible personal property in Indiana if the property was acquired in a retail transaction, regardless of the location of that transaction or of the retail merchant making that transaction.

[IC 6-2.5-5](#), Exempt Transactions of Retail Merchant, lists exempt transactions that would otherwise be subject to the state gross retail tax under [IC 6-2.5-2-1](#). Moreover, under [IC 6-2.5-3-4\(a\)\(2\)](#), the storage, use, and consumption of tangible personal property in Indiana is exempt from the use tax if the property was acquired in a retail transaction that is wholly or partially exempt from the state gross retail tax under any part of [IC 6-2.5-5](#), . . . and the property is being used, stored, or consumed for the purpose for which it was exempted. Thus, transactions exempt from the state gross retail tax are also exempt from the use tax.

Taxpayer asserts that the transactions in question are exempt from the state gross retail tax, and thus the use tax, under [IC 6-2.5-5-25\(a\)](#). [IC 6-2.5-5-25\(a\)](#) provides in relevant part:

Transactions involving tangible personal property, accommodations, or service are exempt from the state gross retail tax, if the person acquiring the property, accommodations, or service:

- (1) is an organization described in section 21(b)(1) of this chapter;
- (2) primarily uses the property, accommodations, or service to carry on or to raise money to carry on its not-for-profit purpose; and
- (3) is not an organization operated predominantly for social purposes.

#### I. Taxpayer Is An Organization Described in Section 21(b)(1).

Taxpayer submits that it is an organization described in section 21(b)(1) of chapter 5. More specifically, Taxpayer submits it is a nonprofit corporation organized and operated exclusively for charitable, scientific, educational, and civic purposes, and that no part of its income will be used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

As noted in the facts above, Taxpayer is a nonprofit corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code. Taxpayer has been classified as a public charity under I.R.C. § 509(a)(4). Taxpayer received this classification because Taxpayer is an organization organized and operated exclusively for the purpose of testing for public safety. Any income distributed by Taxpayer will be distributed to its members, which are and must be 501(c)(3) nonprofit blood banks. As such, Taxpayer does not use any part of its income for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

Because the requirements laid out in I.R.C. § 501(c)(3) largely mirror the requirements found in [IC 6-2.5-5-21\(b\)\(1\)\(B\)](#), Indiana recognizes tax exempt organizations under section 501(c)(3) as being nonprofit corporations under [IC 6-2.5-5-21\(b\)\(1\)\(B\)\(vi\)](#). Taxpayer is a tax exempt organization under section 501(c)(3), thus, Taxpayer is an organization described in section 21(b)(1). Taxpayer meets the requirement set forth in [IC 6-2.5-5-25\(a\)\(1\)](#).

#### II. Taxpayer Primarily Uses the Property To Carry On Its Not-For-Profit Purpose.

Taxpayer's not-for-profit purpose is the testing for public safety. Taxpayer does this by ensuring the proper testing of human blood and tissue. In order to carry on or to raise money to carry on its not-for-profit purpose, Taxpayer must purchase, store, use, or consume tangible personal property and services, including, but not limited to specialized blood testing equipment, reagents used for blood testing, and other supplies used for blood testing and related scientific research. To the extent that any tangible personal property and services purchased by Taxpayer are used primarily by Taxpayer to carry on or to raise money to carry on its not-for-profit purpose, they will meet the requirement set forth in [IC 6-2.5-5-25\(a\)\(2\)](#).

#### III. Taxpayer Is Not An Organization Operated Predominately For Social Purposes.

Finally, Taxpayer submits it is not an organization operated predominantly for social purposes. Taxpayer is an organization organized and operated exclusively for the purpose of testing for public safety through the proper testing of human blood and tissue. It does not facilitate or conduct social activities. Taxpayer has shown it is not an organization operated predominantly for social purposes.

### **RULING**

Taxpayer's purchase, storage, use, or consumption of tangible personal property and services, including, but not limited to specialized blood testing equipment, reagents used for blood testing, and other supplies used for blood testing and related scientific research, is exempt from the Indiana state gross retail tax and use tax when (i) Taxpayer purchases the tangible personal property and services and, (ii) the tangible personal property or services are used primarily to carry on or raise money to carry on Taxpayer's not-for-profit purpose. The one hundred twenty (120) day filing requirement in [IC 6-2.5-5-21\(d\)](#) does not apply to Taxpayer, and as such, it will not preclude Taxpayer from receiving an exemption certificate. However, Taxpayer must still meet the other filing requirements set out in [IC 6-2.5-5-21\(d\)](#).

### **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 situation 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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