

PRIVATE TAXPAYER RULING LR98-007

June 18, 1998

The following private taxpayer ruling is in response to your letter dated June 1, 1998. Your letter requests a determination of the application of Arizona's transaction privilege tax to a business that solicits and sells advertising in the form of direct mail coupons.

The following is a restatement of the facts as presented in your letter.

Statement of facts:

... will be in the business of direct mail coupon advertising promotions. The advertising will take the form of individual coupons in envelopes, individual coupons bound into coupon books, and single sheet coupon promotions.

The advertising will be sold to individual merchants as a result of cold calling or referral, and to marketing directors at various shopping centers as a direct mail promotion for the merchants in the shopping center. The promotions will be for both in state and out of state clients.

In the case of local advertising in the form of coupons in envelopes, the advertiser will be charged a set cost. In return ... will coordinate, design, send out for printing and mail the advertiser's ad in an envelope of similar coupons. There will be about 24 advertisers per envelope mailing. The advertisers will pay ... directly.

In the case of direct mail advertising pieces for advertisers in a specific shopping center, ... will deal with marketing directors at various shopping centers to first agree on the parameters of the coupon promotion, such as how many advertisers and how many pieces will be mailed. ... will then coordinate, design, send out for printing and mail the advertisers' ads in a coupon book or envelope of similar coupons.

1. ... will coordinate all of the artwork for the individual merchants and all graphic design will be done by ...
2. ... will send the entire project to a printer broker to be printed, cut, bound etc. All printing is done in Arizona.
3. ... will order mailing labels from a company that creates mailing lists to geographic or demographic specifications. The labels will generally be sent directly to a mailing service for use on the direct mail promotions. On some occasions, the labels will be shipped to ...

and then ... will send the labels to the mailing service.

4. The direct mail advertising promotions (coupons/coupon books) will be sent directly from the printer to the mailing service for insertion, labeling, sorting and delivery to the post office. The direct mail promotions will then be mailed to customers, either in state or out of state. ... will pay the printing broker and the mailing service. Postage will be paid by the bulk permit held by ...

Applicable statutory provisions:

Arizona Revised Statutes (A.R.S.) § 42-1301(13) defines sale to include the transfer of tangible personal property or other activities taxable by this chapter. The activities subject to transaction privilege tax are divided into seventeen separate classifications.

A.R.S. § 42-1310.06 levies the transaction privilege tax on the business of job printing, engraving, embossing and copying.

Arizona repealed the taxation of advertising on January 1, 1986. The repealed statute taxed the gross income from the business of every person engaging in the business of local advertising by billboards, direct mail, radio, television, newspapers, magazines, other periodicals and publications or by any other means.

Discussion:

Arizona imposes a transaction privilege tax which differs from the sales tax imposed by most states. The Arizona transaction privilege (sales) tax is a tax imposed on the privilege of conducting business in the State of Arizona. This tax is levied on the vendor, not the purchaser. The vendor may pass the burden of the tax on to the purchaser; however, the vendor is ultimately liable to Arizona for the tax.

... is in the business of direct mail advertising. The State of Arizona does not impose a transaction privilege tax on the business of advertising. Laws 1985, Chapter 298, § 40 repealed the state's transaction privilege tax on the business of advertising, effective January 1, 1986.

However, several cities in Arizona do impose privilege taxes upon proceeds derived from the sale of local advertising. "Local advertising" is defined in the Model City Tax Code as advertising by billboards, direct mail, radio, television, or by any other means. Local advertising does not include the advertising of a product or service which is sold or provided both within and without the state by more than one commonly designated business entity.

Conclusion and ruling:

The following ruling is given based on the facts presented in your request.

The department rules that ... is not subject to Arizona's transaction privilege tax on its gross income derived from advertising. A job printer who prints the advertising materials is subject to transaction privilege tax on the gross income derived from sales of printing to ...

The conclusion in this private taxpayer ruling does not extend beyond the facts as presented in the letter dated June 1, 1998, regarding this request for a private taxpayer ruling.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department and is valid for a period of four years from date of issuance except as set out herein. This determination is 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.