



Janet Napolitano
Governor

J. Elliott Hibbs
Director

PRIVATE TAXPAYER RULING LR04-005

June 10, 2004

This private taxpayer ruling responds to your letter of November 17, 2003, as supplemented by your letters dated January 28 and April 20, 2004. In your letters, you ask the Department to rule on the Arizona transaction privilege tax liability of [Taxpayer], a wholly-owned subsidiary of your client . . . ("Company") . . . for Taxpayer's sales of custom-manufactured prescription eyeglasses and disposable grinding and polishing pads used in Taxpayer's manufacturing process of the eyeglasses.

Pursuant to Arizona Revised Statutes ("A.R.S.") § 42-2101, the Department may issue private taxpayer rulings to taxpayers and potential taxpayers on request. Based on the information provided in your request and the fact that Arizona transaction privilege tax is levied on the vendor, not the purchaser, Taxpayer is not liable for transaction privilege tax with respect to its acquisition of grinding and polishing pads used for manufacturing prescription eyewear. Therefore, this private taxpayer ruling is limited to the *transaction privilege tax* liability of Taxpayer's sales of prescription eyewear and the *use tax* liability of Taxpayer's purchases of grinding and polishing pads from out-of-state vendors for use in its manufacturing activities.

The following are facts as presented in your November 17 letter:

Taxpayer manufactures prescription eyeglasses for use by the individual general public and . . . generally dispensed by Licensed Opticians or Licensed Ophthalmic Medical Doctors.

Taxpayer manufactures only specifically ordered prescription eyeglasses

During the manufacturing process[,] certain disposable grinding pads [are] used in and become an integral part of the final prescriptive eyewear. These "pads" are essential to manufacturing the prescriptive eyewear.

Overview of the manufacturing process:

Taxpayer receives an order for prescription eyeglasses from either [a] licensed optician or medical doctor. This prescription is for a specific individual and accordingly the lenses used in the prescription must be custom ground to achieve the proper curves and center of vision to medically correct the patient's vision.

"Blank" (un-ground[]) lenses . . . are placed into the manufacturing process. During this process, the lenses are placed on a high-speed diamond lathe, which is set to grind the proper curves and height to achieve the resulting necessary corrective lenses for the patient.

PRIVATE TAXPAYER RULING LR04-005

June 10, 2004

Page 2

Integral in and in conjunction with the “grinding” process, a special disposable pad is placed on the lenses in order to grind the lenses and achieve the resulting prescription eyeglasses. Such pad becomes an integral part of the final prosthetic device, namely the eyeglasses. Without such pad, today’s manufacturing processes could not be done.

You supplemented these facts with a more detailed description of the manufacturing process in your April 20 letter:

1. Order Taking – Pulling Inventory from Stock.
Upon receipt of “prescription” customer order for eyeglasses, entry is made into customer file and the “required” blank lenses are selected and the required grinding curves computed in order to take . . . “raw blank lenses” to the correct power and curvature for the patient and placed [*sic*] into production.
2. Generating (grinding) the Prescription.
The “raw blank[s]” (essentially the uncut and unfinished blank lenses) . . . are attached to a grinding block The attached lenses . . . are placed into a “generator” ([e]ssentially a lathe designed to grind out the inside surface of the lenses to conform to a patient’s required prescriptive needs. The grinding surface of the generator is a small diamond wheel which does the actual grinding). The generator (lathe) is set to the grinding curves and the inside[s] of the lenses [are] ground out. Upon completion of the generating (grinding) process[,] the lenses [are] of the proper prescriptive power but extremely scored from the use of the diamond wheel and [require] “polishing and finishing” to make [them] into . . . prescription lenses that [are] usable for the patient.
3. Finishing and Polishing the Prescription.
The lenses are then placed on a “polishing” machine. The concave (ground-out portion) facing down on a metal polishing block . . . , the “polishing pads” . . . are placed on the polishing block between the surface of the lenses to be polished (the concave portion) and the polishing block. The polishing machine then rotates the lenses over the polishing pad conforming to the curvature of the block to remove any marks, scratches, scoring and other imperfections to a smooth and clear finish suitable for prescription eyewear.

During the polishing process the material of the polishing pad and the pad itself [are] used to remove the imperfections in the finished product. Without the use of the pad it would be difficult to produce a pair of prescription eyeglasses that would be suitable for use in a satisfactory manner. The pads and their content [are] expended and used in the process and the pads cannot be reused.

Your Position

With the limitation in scope to Taxpayer’s actual tax liability as explained *supra*, the Department understands your position to be that: (a) the gross proceeds of Taxpayer’s sales of prescription eyeglasses are exempt from transaction privilege tax and (b) Taxpayer’s purchases of grinding and polishing pads used are exempt from use tax because they constitute an “integral part” of the finished eyeglasses.

PRIVATE TAXPAYER RULING LR04-005

June 10, 2004

Page 3

Conclusion and Ruling

The Department rules that:

1. Pursuant to A.R.S. § 42-5061(A)(11), the gross proceeds of Taxpayer's sales of prescription eyeglasses are not subject to Arizona transaction privilege tax under the retail classification.
2. While not an "integral part" of the finished eyeglasses, Taxpayer's purchases of grinding and polishing pads are nevertheless machinery and equipment used directly in Taxpayer's manufacturing operations and thus exempt from Arizona use tax under A.R.S. § 42-5159(B)(1).

The conclusions of this private taxpayer ruling do not extend beyond the facts presented in your letters dated November 17, 2003, January 28, 2004, and April 20, 2004.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determinations are 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.

The determinations in this private taxpayer ruling are only applicable to the taxpayer requesting the ruling and may not be relied upon, cited, nor introduced into evidence in any proceeding by a taxpayer other than the taxpayer who has received the private taxpayer ruling.