



Janet Napolitano
Governor

Gale Garrriott
Director

PRIVATE TAXPAYER RULING LR06-005

August 16, 2006

This private taxpayer ruling is in response to your letter dated September 18, 2005, as updated by correspondence on December 17, 2005, January 16, 2006 and January 28, 2006, in which you request the Arizona Department of Revenue ("Department"), to rule on behalf of . . . ("Taxpayer"), on the applicability of transaction privilege tax to gross proceeds or income derived from the sale of computer-generated images. Pursuant to Arizona Revised Statutes (A.R.S.) § 42-2101, the Department may issue private taxpayer rulings to taxpayers and potential taxpayers on request.

Statement of Facts

Taxpayer's correspondence provides, in part, the following information:

[Taxpayer] creates a digital/virtual painting. He draws an original lifelike picture/image for an architect or contractor that shows what the finished project they are envisioning will look like. He generates it by using a computer program. The drawing/picture/image is emailed to the architect or contractor. . . . The architect or contractor handles any printing of the drawing.

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[Taxpayer] does NOT do the mechanical drawings, the blueprints to build from, the to-scale line drawings that actual construction occurs from.

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For every commissioned job, the Taxpayer receives some sort of drawing, sketch, specification, plan, mechanical drawing, etc. from his customer. The customer has a rough idea of what they want the image to contain. They provide the idea, concept, or goal of the picture to the Taxpayer. He is given notes and verbal instructions. The complexity of the project determines the amount and type of specifications, plans, drawings, or sketches the customer provides the Taxpayer. But, there is always a specific requirement to the job and it is a one-of-kind work product for a single customer.

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The [T]axpayer is receiving specific instructions from a specific customer to create a one of a kind image. He has to follow the colors, concepts, textures, dimensions, scale, and vision of the customer. These items provided by the customer are only the start. There are meetings and phone conferences held to pinpoint the exact look of the desired image. The customer even reviews the proposed image and either accepts the work or asks for changes. The customer is expecting the [T]axpayer to utilize their input to create the finished image they are expecting.

Issue

Are gross proceeds or income derived from the sale of computer-generated pictorial illustrations of building projects subject to state transaction privilege tax?

Your Position

Taxpayer's position as stated in your correspondence of January 16 and January 28, 2006:

We believe that these source materials and finished images support our view that the customer is paying for a service - a skill.

Conclusion and Ruling

Taxpayer's business of providing a computer-generated pictorial design illustration or rendering based on verbal ideas or a blueprint provided by a customer is a service not subject to transaction privilege tax. The electronic transfer of tangible personal property necessary to convey each pictorial rendering is an inconsequential element of Taxpayer's service occupation or business.

The conclusions in this private taxpayer ruling do not extend beyond the facts presented in your correspondence dated September 18, 2005, as updated on December 17, 2005, January 16, 2006 and January 28, 2006, respectively. This ruling only applies to the specific facts and business activities Taxpayer has described. Any change in the facts or in Taxpayer's activities could result in a different conclusion being reached.

This response is a private taxpayer ruling and the determinations herein are 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.

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The determinations in this private taxpayer ruling are applicable only 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.

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