

05-019

NAME
ADDRESS

Dear Representative:

This letter is to obtain clarification regarding Utah Admin Code R865-19S-85 Sales and Use Tax Exemptions for New or Expanding Operating Replacements and receive a ruling relating to the applicability of use tax to a specific transaction.

As noted in Utah Admin Code R865-19S-85, the term “machinery and equipment” is defined as

- a) an electronic or mechanical device incorporated into a manufacturing process from the initial stage where actual processing begins, through the completion of the finished end product, and including final processing, finishing, or packaging of articles sold as tangible personal property. This definition includes automated material handling and storage devices when those devices are part of the integrated continuous production cycle; and
- b) any accessory that is essential to a continuous manufacturing process.

For your information, COMPANY is a large format printer of digital graphics. In order to manufacture commercial graphics, COMPANY clients must upload their digital graphic files to our server. These files are then manipulated into a language from which our digital printers can read and then produce.

Does the software technology purchased by COMPANY to be used by their clients to upload their digital graphics files qualify as an “electronic device incorporated into a manufacturing process” for purposes of qualifying for exemption from use tax for machinery and equipment?

Due to the complex nature of this transaction, we respectfully request a ruling on this matter. If you have any questions or need further information, please contact me at PHONE NUMBER.

Sincerely,

NAME
TITLE

RESPONSE

June 26, 2006

NAME
ADDRESS

Re: Private Letter Ruling 05-019
Applicability of Sales Tax to Purchase of Software

Dear NAME,

This letter is in response to your request for tax guidance. This letter ruling is not intended as a statement of broad Tax Commission policy. It is an interpretation and application of the tax law as it relates to the facts presented in your request letter and in telephone conversations. If the facts are not correctly described in this letter ruling, please let me know so we can assure a more accurate response to your circumstances.

Facts

COMPANY is in the business of commercial and large format digital printing. The company is a manufacturer, falling within the 1987 SIC code of 2759. As a qualifying manufacturer, COMPANY is eligible for tax exemptions on certain purchases of manufacturing equipment and devices. COMPANY seeks advice as to whether its purchase of software is exempt.

COMPANY produces some of its product from graphic files provided by its customers. The customer typically delivers the graphic file by uploading the file via COMPANY web site. Once the file is uploaded, it is stored on COMPANY server until a technician directs it to a particular printing device. The printing devices are operated in conjunction with software that converts a graphic file to a useable format and produces the final product.

The software at issue here is not used specifically to operate the printers. It is the software that allows customers to upload files online to the company's server. We assume for purposes of this opinion letter that the software is "canned" software and that the company did not contract with a programmer to write customized software solely for your company's purposes.

Your company has already purchased this software, and you have verified that this purchase is not the subject of an audit.

Analysis

COMPANY as a qualifying manufacturer, may purchase certain machinery and equipment free of sales tax if it is used in a manufacturing process and if it has an economic life of three or more years. See, Utah Code Ann. §59-12-104 (14). In the case of computer-aided machinery or equipment, the exemption extends to computers and software that are used exclusively to control the operation of the equipment in the manufacturing process, so long as it has an economic life of three or more years.

The issue here is whether this software is used in a continuous manufacturing process, “from the stage where processing begins to the completion of the end product.” Utah Administrative Rule R865-19S-85. COMPANY clients use this software to deliver the graphics files to COMPANY. This software functions solely to upload and store graphic files for later processing. It does not operate or control the printers or other manufacturing equipment.

Ruling

The software at issue here serves a delivery function rather than a manufacturing function. It is not used in the manufacturing process itself. Therefore, the purchase of the software does not qualify for exemption.

Please contact us if you have other questions.

Sincerely,

Marc B. Johnson
Commissioner