

## REQUEST LETTER

06-006

NAME  
ADDRESS

COMPANY and subsidiaries (F.E.I.N. ##-#####) is investigating the Sales and Use tax treatment of a retail transaction involving tangible personal property that will have a taxable situs in your state.

We hereby request a ruling to clarify the application of your state sales and use tax law with respect to the transactions described below.

### Transaction Background:

The transaction process begins when a customer brings an empty computer ink cartridge to COMPANY, a retail drug store, to have computer ink cartridge refilled. Store personnel first determine which manufacturer the customer's computer ink cartridge is associated with to determine if store computer ink cartridge equipment can refill the cartridge. The following processes are involved once the determination is made for the refilling of the cartridge:

Issue 1: Customer brings in empty computer ink cartridge and is determined by COMPANY store personnel to be a refillable cartridge. Store personnel then proceed with the following steps with the use of computer ink cartridge refill equipment:

- Step 1: Evacuate remaining contents of cartridge
- Step 2: Fill cartridge with ink
- Step 3: Seal cartridge with cartridge specific cap
- Step 4: Diagnostic check
- Step 5: Seal cartridge discharge ports
- Step 6: Complete sale to customer

Issue 2: Involves the same processes as Issue 1 with the exception if the customer cartridge is determined to be defective during ink cartridge refilling process. See as follows: Customer brings in empty computer ink cartridge and is determined by COMPANY store personnel to be a refillable cartridge. Store personnel then proceed with the following steps with the use of computer ink cartridge refill equipment:

- Step 1: Evacuate remaining contents of cartridge
  - Step 1a: During Step 1, if customer cartridge is determined to be defective, store personnel will **replace** customer cartridge with like kind cartridge from on-hand inventory.
- Step 2: Fill **replacement** cartridge with Ink
- Step 3: Seal **replacement** cartridge with cartridge specific cap
- Step 4: Diagnostic check and **replacement**
- Step 5: Seal **replacement** cartridge discharge ports
- Step 6: Complete sale to customer

We respectively request your review of the facts presented and situations described above. Also we would appreciate you furnishing is authority for your response (statute, regulation, rulings, opinions, etc. We certainly appreciate your assistance in this matter. If you have any questions or need any additional information please call me at (###) ###-####. The response should be mailed to the undersigned at:

COMPANY  
ADDRESS

Respectfully submitted,

NAME  
PHONE

## RESPONSE LETTER

October 10, 2007

NAME  
ADDRESS

Re: Private Letter Ruling 06-006  
Application of sales and use tax provisions to refilling printer ink cartridges.

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 Utah tax law as it relates to the facts presented in your request letter and the assumptions stated in the Analysis portion of this ruling letter. If the facts or assumptions 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 plans to fill computer ink cartridges at its retail stores. For each of the transactions at issue, a customer brings an empty computer ink cartridge to a COMPANY store to have the ink cartridge refilled. Store personnel first determine which manufacturer the customer's computer ink cartridge is associated with to determine if store computer ink cartridge equipment can refill the cartridge. The following processes are involved once the determination is made for the refilling of the cartridge:

- Step 1: Evacuate remaining contents of cartridge
- Step 2: Fill cartridge with ink
- Step 3: Seal cartridge with cartridge specific cap
- Step 4: Diagnostic check
- Step 5: Seal cartridge discharge ports
- Step 6: Complete sale to customer

Normally, COMPANY personnel perform the above operations on a customer's ink cartridge. It is also possible that at some stage of the filling process, particularly in the testing phase, the COMPANY personnel might determine that the customer's ink cartridge is damaged or defective. When this happens, COMPANY offers an empty replace cartridge to the customer. COMPANY then fills the replacement cartridge for the customer.

COMPANY asks for guidance regarding the taxability of the refilling of customers' ink cartridges. It also asks if there is a different tax treatment for those instances in which COMPANY sells a new empty cartridge to replace a customer's damaged or defective cartridge. For further discussion of the tax implications of the purchase of the equipment purchased to perform refilling procedure, see a separate opinion issued as Private Letter Ruling number PLR 06-010.

### **Relevant Utah Law**

Utah Code Section 59-12-103 generally provides for sales or use tax on the sale or repair of tangible personal property:

A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

\* \* \*

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

- (i) the tangible personal property; and
- (ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations of that tangible personal property;...

Utah Code Section 59-12-102(93)(a) defines "tangible personal property" as personal property that may be seen, weighed, measured felt, or touched or is in any manner perceptible to the senses. Utah Code Section 59-12-102(74) defines "repairs or renovations of tangible personal property" as either a "repair or renovation of tangible personal property" or "attaching tangible personal property to other tangible personal property."

Utah law provides that the sales price upon which sales tax is computed includes the cost necessary to deliver a completed product to the customer. Utah Code Section 59-12-102(68) provides that sales price includes the cost of materials used, labor cost, service cost, interest, loss, transportation to the seller, taxes imposed on the seller, and a charge by the seller for any service necessary to complete the sale.

### **Analysis and Ruling**

Applying Utah's sales and use tax statutes, the filling of ink jet cartridges would be a taxable transaction whether the essence of the transaction is a repair or renovation of a customer's existing property or whether the object of the transaction is the sale of ink. A repair or renovation of a customer's ink cartridge would be taxable as "repairs or renovations of tangible personal property" under Utah Code Section 59-12-103(g). Ink is tangible personal property under Utah Code Section 59-12-102(93)(a) because it may be seen, weighed, measured felt, or touched.

Adding ink to an empty cartridge is a "repair or renovation of tangible personal property" because it is "attaching tangible personal property to other tangible personal property" as defined in Utah Code Section 59-12-102(74). Thus, refilling an ink cartridge is taxable if considered a repair to the empty ink cartridge.

Even if the object of the transaction were considered to be a sale of ink, it would be taxable as a "retail sale of tangible property" under Utah Code Section 59-12-103(a). The labor necessary to

test and fill a cartridge would be incidental to the transaction and be considered taxable as part of the sale as a cost necessary to deliver a completed product to the customer as described in Utah Code Section 59-12-102(68).

Under these same statutes, filling an ink cartridge that COMPANY supplies to a customer is a taxable transaction. The only difference is that this is more clearly a “retail sale of tangible property” under Utah Code Section 59-12-103(a) and less likely to be considered “repairs or renovations of tangible personal property” under Utah Code Section 59-12-103(g).

### **Conclusion**

The refilling of ink jet cartridges for retail customers is a taxable transaction. The Tax Commission provides this opinion on the basis of the information provided it. No person should rely on this opinion for facts other than those you provided in your initial letter and those supplemental facts as described in this letter. If you wish to address these or other Utah tax concerns further, please do not hesitate to contact us.

For the Commission,

Marc B. Johnson  
Commissioner

MBJ/CDJ  
06-006