

FINAL PRIVATE LETTER RULING

REQUEST LETTER

09-006

February 20, 2009

Tax Master

I am considering a business venture where I would print and issue a community currency. It is 100% legal to print and issue community currencies provided that they do not look anything like US Dollars. They circulate in a limited geographical area such as a county. They are a form of paper money that businesses may accept as full or partial payment for goods or services.

To issue the community currency I would print the community currency bills and then sell them to local businesses for a percentage of their face value. The local business would then resell them to the public at face value.

Once the community currency is in circulation it would be exchanged and used to pay for goods and services just like regular US dollars are used.

My question is in regard to the initial issuance "sale?" of the currency to local businesses and the "re-sale?" of the currency to the public. Would either of these transactions be considered a taxable sale for sales tax purposes?

The community currency is a physical thing, however, it is not a consumer item. It is used as money in the community.

While community currencies have been used in other States for many years, I don't know if this question has been addressed in Utah.

In the Utah Sales Tax Code there is an exemption for legal tender in 59-12-104 (51) and in (52) (b) there is an exemption for other things that do not constitute legal tender such as gold, silver, and platinum.

(51) sales of currency or coinage that constitute legal tender of the United States or of a foreign nation.

(52) (a) sales of an item described in Subsection (52)(b) if the item:

- (i) does not constitute legal tender of any nation; and
 - (ii) has a gold, silver, or platinum content of 80% or more; and
- (b) Subsection (52)(a) applies to a gold, silver, or platinum:
- (i) ingot;
 - (ii) bar;
 - (iii) medallion; or
 - (iv) decorative coin;

I do not know if there is anything else in current sales tax law that might apply to a community currency. Please advise.

I would very much appreciate your research and response.

Thank you,

NAME

COMPANY

ADDRESS

EMAIL

PHONE

RESPONSE LETTER

September 10, 2009

NAME
COMPANY
ADDRESS

Re: Sales Tax Treatment on Sales of Community Currency Based on Facts as Provided

Dear NAME:

You have requested a ruling on the sales tax treatment of transactions involving a community currency that you propose to print and issue. You provided us with the facts through your request letter and our later telephone conversation. You explained that the local participating businesses would accept the currency as full or partial payment for goods or services.

You plan to issue the currency by printing currency bills and then selling them to local businesses for a percentage of their face value, possibly 60 percent of face. You would print the currency bills using a laser printer, spotlighting the purchasing businesses on the front of the bill and referring to other participating businesses on the back. You then explain that the local businesses would resell the bills to the public at face value. You further explained that the local business would want to purchase the bills from you, first, for advertising because they would be featured on the bills that they purchase and, second, for profit because the businesses would earn a profit by selling the bills to the public. You explained that the public would want to purchase the bills at face value in an effort to support local businesses. An individual might purchase the currency bills to give as a gift to someone else, like a gift card. You assert that once the bills are in circulation, the bills would be exchanged and used to pay for goods and services just like regular U.S. dollars are. When asked about how businesses might redeem the currency bills for U.S. dollars, you explained that no organization would be designated to redeem. However, local businesses could resell the currency back to the public.

You have asked us to rule on the sales tax treatment of your initial issuance of the bills to the local businesses and on the treatment of the local businesses' subsequent sales of the bills to the public. You have also asked us to advise you if there is anything other than §§ 59-12-104 (51) and (52)(b) that might apply to a community currency.

For this ruling, we have considered information about community currencies, in general. Such currencies depend on a network of local banks, businesses, and individuals. The main purpose of the community currencies is to promote "buy local" movements. Local banks are typically involved to exchange U.S. dollars for the community currency and the community currency for U.S. dollars. A group of local businesses agree to accept the community currency for services or goods. In this case, a couple key differences between your currency bills and

other community currencies are that there will not be an organization to redeem the currency for U.S. dollars and that your currency will spotlight different local businesses on the front based on the businesses that purchase the bills from you.

After considering the facts presented, we find that both the initial issuance of the currency bills from you to the local businesses and the subsequent sales of the currency bills by the local businesses to the public are sales of intangible property similar to gift cards. The physical cards do not have intrinsic value; rather, the cards represent other value. Black's Law Dictionary defines "intangible property" as follows: "this term means such property as has no intrinsic and marketable value, but is merely the representative or evidence of value, such as certificates of stock, bonds, promissory notes, and franchises." Black's Law Dictionary 726 (5th ed. 1979). A gift card is not taxable when a company sells it to a customer. Instead, the company collects sales tax when a customer uses it to purchase taxable services or merchandise.

Accordingly, we find that the sales of the bills, whether at the initial purchase by a business or at a subsequent sale by the business to the public, are not subject to sales tax, even if the businesses are featured on the bills. Rather, the participating businesses must collect and remit sales tax when customers use the bills to pay for taxable merchandise or services. The tax collected must be calculated and remitted to the Tax Commission based on U.S. dollars even if customers pay with currency bills.

We have two final related items to discuss. First, although the sales of gift cards are not taxable, the materials used to produce the gift card are subject to use tax. Similarly, you as the printer must pay sales or use tax on the materials used to produce the currency bills.

Second, we find that the currency bills do not meet the exemptions of §§ 59-12-104 (51) and (52)(b) for legal tender or for the sales of gold, silver, or platinum.

In conclusion, based on the facts presented and the reasons stated above, both the initial sale and the subsequent sale of the currency bills are transactions not subject to sales tax. Rather, sales tax applies to the later transactions in which customers pay for taxable merchandise or services with the bills. Additionally, you as the printer must pay sales or use tax on the materials used to produce the bills.

Our conclusions are based on the facts as described. Should the facts be different, a different conclusion may be warranted. If you feel we have misunderstood the facts as you have presented them, if you have additional facts that may be relevant, or if you have any other questions, please contact us.

For the Commission,

Marc B. Johnson
Commissioner

MBJ/aln
09-006