



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

AUGUST 11, 2008

Sourcing of Direct Mail

Background

In conforming to the provisions of the national Streamlined Sales and Use Tax Agreement (SSUTA), Washington switched from “origin sourcing” (based on where the goods originated) to “destination sourcing” (based on the location where the customer receives the goods). “Sourcing” refers to the location (i.e., the local taxing district, jurisdiction, or authority) where a sale occurs for retail sales tax purposes. RCW 82.32.730 implements destination sourcing for most retail sales in Washington. However, RCW 82.32.730 provides special requirements for sellers of direct mail.

What is direct mail?

Direct mail is:

- printed material delivered or distributed by United States mail or other delivery service,
- to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser,
- when the cost of the printed material is not billed directly to the recipients.

“Direct mail” includes tangible personal property supplied directly or indirectly by the purchaser to the seller for inclusion in the package containing the printed material. “Direct mail” does not include multiple items of printed material delivered to a single address.

Anticipated amendment

On June 18, 2008, the Streamlined Sales and Use Tax Agreement (SSUTA) Governing Board voted to adopt a Washington-sponsored amendment that would permit states to have sellers of direct mail collect sales tax on in-state direct mail based on the seller’s location rather than every location to which the mail is delivered. The Governing Board will need to approve this amendment a second time before it becomes a part of the agreement. The Department of Revenue does not anticipate any problem with getting a favorable vote at the next Governing Board meeting in September. Therefore, the Department plans to actively pursue legislation to amend Washington’s law to adopt the Washington-sponsored SSUTA amendment, and we are hopeful that these provisions will be adopted during the 2009 legislative session.

Washington’s treatment in the interim period (prior to the anticipated adoption of this amendment into law):

- Under current law, if the seller of direct mail does not have jurisdictional information, the seller is required to source the sale to the seller’s location. The Department will presume that the seller does not have jurisdictional information.
- If the seller of direct mail substantiates that it has jurisdictional information, the seller, under existing law, should collect Washington State sales tax on the basis of the “mail-to” addresses that are in Washington.
- If the seller of direct mail obtains an exemption certificate or direct pay permit from the purchaser, the seller does not need to collect Washington State sales tax.
- If the seller of direct mail can document that any portion of the direct mail is delivered outside Washington, the seller is not required to collect sales tax on that portion.

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What is jurisdictional information?

“Jurisdictional information” is information sufficient to determine the tax jurisdictions to which the direct mail will be delivered. To have jurisdictional information, the seller of direct mail must be able to retain and retrieve the information for purposes of sales or use tax reporting. Typically, this occurs when the seller either owns or maintains the mailing list.

What types of businesses are eligible for the “direct mail” treatment?

Persons eligible for the direct mail treatment are businesses that sell printed materials and are responsible for its delivery or distribution to a mass audience using a mailing list provided by the purchaser or at the direction of the purchaser. Further, the cost of the mailing cannot be billed to the recipient.

If a taxpayer is merely responsible for delivery of the printed material to another business (e.g., a mailing bureau) and this other business has the contractual agreement with the customer for the mass distribution, the taxpayer is not eligible for the direct mail treatment.

Some businesses reporting under the printing and publishing classification of the B&O tax can qualify with respect to some of their jobs. Additionally, mailing bureaus, public relations and advertising firms may also qualify with regard to some jobs.

However, publishers that mail magazines or periodicals to their subscribers do not qualify for the direct mail treatment.

Summary

The Department will not require the seller of direct mail to source individual pieces to the mailing addresses. The Department will presume that the seller does not have jurisdictional information, and thus under current law should source to their location (basically “origin” sourcing). However, if the seller substantiates that it has jurisdictional information, it should source to the individual Washington addresses contained in the mailing list.

If the seller obtains an exemption certificate or direct pay permit from the purchaser, the seller does not need to collect any sales tax.