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June 30, 2004

REDACTED TEXT

Re: REDACTED TEXT
 SR Y OH REDACTED TEXT

Dear Ms. REDACTED TEXT:

This is in response to your letter dated March 29, 2004,¹ requesting information on how sales tax applies to your client. You write:

“The REDACTED TEXT Company, a retail drug store chain, requests a written opinion regarding the sales taxability to our customers on the purchase of Entertainment Coupon Books.[²] These books only contain coupons. These coupons allow discounts for restaurant, theaters, sporting events, etc.”

Discussion

As a matter of introduction, California imposes a sales tax on retailers measured by a retailer's gross receipts from the retail sale of tangible personal property in this state, unless an exemption applies. (Rev. & Tax. Code, § 6051.) "Gross receipts" means the total amount of the retail sale price for which the property is sold without any deduction on account of the cost of the property sold or any other expense. (Rev. & Tax. Code, § 6012(a).) Sales tax is imposed on a retailer who may collect reimbursement from its customers if its contract so provides. (Civ. Code, § 1656.1; California Code of Regulations, title 18, section (hereinafter "Regulation") 1700.)³ When a retailer collects such sales tax reimbursement from its customers, the amount is usually itemized simply as "sales tax" on the invoice or cash register receipt.

¹ For your information, Mr. Sorensen has retired as the Executive Director of the agency. Mr. Ramon J. Hirsig is now the Board's Executive Director. Further, your inquiries regarding California Sales and Use Tax Law can be sent directly to the attention of Ms. Janice Thurston, the Assistant Chief Counsel of the Business Taxes Division of the Legal Department, if you so desire.

² Hereinafter referred to as "entertainment books" in this letter.

³ All references to regulations are to sections of the California Code of Regulations, title 18.

The entertainment books in question are a collection of coupons to various establishments, such as restaurants, movie theaters, sporting events, and, we assume, stores. We do not regard the sales of such coupon books by REDACTED TEXT to be sales of tangible personal property. The coupons in question are merely evidence of an intangible right - a record or indicia of the right to services or tangible personal property at a reduced price. (Sales and Use Tax Annots. 295.0941 (3/13/96) (sales of coupon books by a restaurant are not sales of tangible personal property); 540.0175 (10/18/95) (sales of grocery coupon certificate books entitling holders to obtain coupons with each certificate are not sales of tangible personal property) ; 540.0180 (10/22/56) (sales of service station booklets containing coupons entitling purchasers to various services at no charge are not sales of tangible personal property).) (See, also Sales and Use Tax Annot. 280.0580 (1/25/61) (a gift certificate is evidence of an intangible right and its sale is not subject to sales tax).) As such, the sales of entertainment books by REDACTED TEXT to its customers, like coupon books, are not subject to sales tax.

I hope this answers your question. If you have any further questions after reviewing this letter, please write again.

Sincerely,

Anthony S. Epolite
Senior Tax Counsel

ASE: ds

cc: Out of State District Administrator (OH)