**Private Letter Ruling**

|  |  |
| --- | --- |
| **Ruling Number:** | **P-2004-026** |

|  |  |
| --- | --- |
| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Gift wrapping services.** |
| **Keywords:** |  |
| **Approval Date:** | **06/25/2004** |

**Body:**

Office of Policy & Research  
  
  
June 25, 2004

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX  
  
Dear Sirs:  
  
The purpose of this letter is to respond to your request dated March 8, 2004.  
  
In your letter you stated:

XXXXXXXXXX sells various merchandise to customers who place orders on XXXXXXXXXX’s Internet site. A customer may choose to have the purchased item be gift wrapped by a XXXXXXXXXX employee prior to being shipped to the desired location. An employee at the warehouse location form which the product is shipped would perform the gift-wrapping. The gift-wrapping is separately stated on the receipt provided to the customer. The items are shipped FOB Destination.

You asked the following questions:  
  
1. If your state were the destination for the gift-wrapping item, would the gift-wrapping be considered as part of the cost of the item? In which case, its taxability would be tied to the taxability of the item? Thus if the item is subject to sales and use tax, then the gift-wrapping charge is also subject to tax.

2. If your state were the destination of the gift-wrapped item, would the gift-wrapping be subject to sales tax regardless of taxability of the related item?

3. If your state is the where the gift wrapping service is performed but the item is shipped to a location outside your state, is the gift wrapping service subject to sales tax as an enumerated service?  
  
Since July 1, 200, Kansas has applied to “destination-based” sourcing rules to all retail sales of taxable services and all sales of tangible personal property. This means the sale of a taxable service is sourced or taxed based on the location where the purchaser of the services makes first use of those services. This will often, but not always, be the same location as where the service is performed.  
  
Gift-wrap is a taxable service in Kansas. See K.S.A. 79-3603(p). Thus, if Kansas were the destination of the gift-wrapped item, the gift-wrap service would be taxable. The taxability of the sale and the service are not tied together. The gift-wrapping service would be taxable regardless of the taxability of the sale of the item itself.  
  
If the gift-wrapping service was done in Kansas, but the item was shipped to a location outside Kansas, then no Kansas retailer’s sales tax would be collected on the service. This is because the location where the purchaser of the gift-wrapping service first makes use of it falls outside Kansas.  
  
This is a private letter ruling pursuant to K.A.R. 92-19-59. It is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to an accurate determination by the department, this ruling is null and void. This ruling will be revoked in the future by the operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or published revenue ruling, that materially effects this private letter ruling. If I may be of further assistance to you, please contact me at your earliest convenience at (785) 296-5330.  
  
  
Sincerely,  
  
  
Mark D. Ciardullo  
Tax Specialist  
  
  
MDC  
  
  
**Date Composed: 06/28/2004 Date Modified: 06/29/2004**