**Private Letter Ruling**

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| **Ruling Number:** | **P-2015-001** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax** |
| **Brief Description:** | **Various sales tax related questions in a retail environment** |
| **Keywords:** |  |
| **Effective Date:** | **03/12/2015** |
| **Approval Date:** | **03/12/2015** |

**Body:**

March 25, 2015

XXXXXXX  
XXXXXXX  
XXX XXXX  
XXXXXXX  
  
Dear Ms. XXXXX,  
  
Thank you for your letter dated October 8, 2014. In it, you request the department clarify any updates and/ or changes to the application of sales tax on certain products currently available for sale in your retail stores as well as on your website. This response has been broken down to accommodate the answers relevant to each of the representative products you cited for reference.

1) Remote access software/ virtual goods- The purchase by retail consumers of digital content for the use in an online video game. The virtual goods are accessed by consumers online and typically involve either accessing a complete game or additional content within a game that resides on a third party computer server.

XXXXXX sells an access code printed on a paper receipt to individual customers that allows the customer to access the described content on a third party server. XXXXXX soon will also sell such codes via its website and consumers would print out or otherwise record the code displayed on screen for later use.  
  
*Please clarify whether the sale of such access codes by XXXXXX in a physical retail environment and/or via the internet is taxable.*  
  
**Answer: The initial sale of the access codes is not taxable whether sold in a physical retail environment and/or via the internet. When the access code is redeemed for the purchase of digital content for the use in an online game that resides on a third party user, the redemption of the access code does not initiate the sales tax because the aforementioned items are not prewritten software and therefore are not subject to the Kansas Retailers’ Sales Tax.**

2) Downloadable digital content- the purchase by retail consumers of electronically delivered pre-written software in the form of complete video games or video game add-ons that are downloaded directly to a customer’s personal computer, gaming console, or mobile device.

XXXXXX sells an access code printed on a paper receipt to individual customers that allow the customer to download software from a third party server directly to the customer’s device. XXXXXX will also soon sell such codes via its website and consumers would print out or otherwise record the code displayed on the screen for later use.  
  
*Please clarify whether the sale of such access codes by XXXXXX in a physical retail environment and/or via the internet is a taxable transaction.*  
  
**Answer: The initial sale of the access codes of prewritten software is taxable whether sold in a physical retail environment and/or via the internet.**

3) Subscription cards- the purchase by retail consumers of plastic cards containing subscription time to be used to access online networks that allow gameplay, interaction among other players on a network, access to digital online content, or the direct download of digital content to a consumer’s device.

XXXXXX sells plastic cards containing a subscription that allow the consumer to access third network or content on a third party network for specified period of time. Cards offering points may provide network access for a period of time, be used to access digital content on the network, or be used to directly download digital content from the network.  
  
*Please clarify whether or not the sale of subscriptions cards by XXXXXX in a physical retail environment and/or via the internet is a taxable transaction.*  
  
**Answer: The initial sale of the subscription cards whether sold in a physical retail environment and/or via the internet is not taxable. When the subscription cards are redeemed for access to online networks that allow gameplay, interaction among other players on a network, access to digital online content, or the direct download of digital content to a consumer’s device, the redemption of the subscription does not prompt the sales tax because the items are not prewritten software and therefore are not subject to the Kansas Retailers’ Sales Tax.**

4) Point cards- the purchase by retail consumers of plastic cards containing point values to be used within online networks for game play, interaction among other players on a network, access to digital online content, or the direct download of digital content to a consumer’s device.

XXXXXX sells plastic cards containing points that allow the customer to access content on a third party network for specified number of points. Cards offering points may provide network access for a period of time, be used to access digital content on the network, or be used to directly download digital content from the network  
  
*Please clarify whether or not the sale of point cards by XXXXXX in a physical retail environment and/or via the internet is a taxable transaction.*  
  
**Answer: The initial sale of the point cards whether sold in a physical retail environment and/or via the internet is not taxable. When the point cards are redeemed for access to online networks that allow gameplay, interaction among other players on a network, access to digital online content, or the direct download of digital content to a consumer’s device, the redemption of the subscription does not prompt the sales tax because the items are not prewritten software and therefore are not subject to the Kansas Retailers’ Sales Tax.**

5) Notional dollar value cards- the purchase by retail consumers of plastic cards containing notional dollar values to be used within online networks for game play, interaction among other players on a network, access to digital online content, or the direct download of digital content to a consumer’s device.

XXXXXX sells plastic cards containing notional dollar values that allow the customer to access content on a third party network for specified number of points. Cards offering points may provide network access for a period of time, be used to access digital content on the network, or be used to directly download digital content from the network  
  
*Please clarify whether or not the sale of notional dollar value cards by XXXXXX in a physical retail environment and/or via the internet is a taxable transaction.*  
  
**Answer: The initial sale of the notional dollar value cards is not taxable. When the notional dollar values are redeemed for access to online networks that allow gameplay, interaction among other players on a network, access to digital online content, or the direct download of digital content to a consumer’s device, the redemption of the notional dollar value does not prompt the sales tax because the items listed are not prewritten software and therefore are not subject to the Kansas Retailers’ Sales Tax.**

As a general rule, only downloadable prewritten software that is delivered physically or digitally to a Kansas user is subject to the Kansas Retailers’ Sales Tax.  
  
Sincerely,  
  
  
  
Mark D. Ciardullo  
Tax Specialist  
  
F.M  
  
  
**Date Composed: 03/16/2015 Date Modified: 03/19/2015**