

May 5, 2014

Delivery Charges for Direct Mail

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Issue

Are charges for U.S. postage for the delivery of direct mail subject to sales or use tax?

Conclusion

Beginning April 1, 2014, [Neb. Rev. Stat. §§ 77-2701.11](#) and [77-2701.35](#) have been amended by the provisions of [Laws 2014, LB 867](#), to provide an exemption for charges by sellers of direct mail for U.S. postage, if the charges are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Definitions

Delivery Charges. Delivery charges are defined in [Neb. Rev. Stat. § 77-2701.11](#) as charges by the seller for preparation and delivery to a location designated by the purchaser, but does not include U.S. postage charges on direct mail that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Direct Mail. Direct mail is defined in [Neb. Rev. Stat. § 77-2701.12](#) as printed material delivered or distributed by U.S. 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 items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail 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.

Sales Price. Sales price is defined in [Neb. Rev. Stat. § 77-2701.35](#) as the total amount of consideration for which personal property or services are sold and without any deduction for the seller's expenses, except charges for U.S. postage on direct mail if those charges are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Analysis

[Neb. Rev. Stat. § 77-2703\(1\)](#) imposes tax on the “gross receipts” from all sales of tangible personal property, which includes sales of printed material classified as “direct mail.” Retailers making sales of direct mail are required to collect sales tax on the gross receipts of the total amount of the “sales price,” defined in [Neb. Rev. Stat. § 77-2701.35](#), which includes amounts for delivery that are charged by retailers. Prior to April 1, 2014, this definition of “sales price” included all delivery charges, including U.S. postage.

With the enactment of Laws 2014, LB 867, the terms “sales price” and “delivery charges” are now defined to exclude U.S. postage charges on direct mail that are separately stated on the invoice, bill of sale, or similar document given to the purchaser. Therefore, beginning April 1, 2014, separately stated U.S. postage charges for the delivery of direct mail are exempt from sales and use taxes. This exclusion applies to all forms of direct mail, whether classified as advertising and promotional direct mail or other direct mail. Charges by the seller of direct mail for other forms of delivery are still subject to sales and use taxes.

Provisions of the following Nebraska Sales and Use Tax Regulations: 1-007, Gross Receipts Defined; 1-057, Printing and Related Industries; and 1-079, Delivery Charges, are superseded to the extent they do not provide for the U.S. postage charges exemption contained in Laws 2014, LB 867.

APPROVED:



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