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Pennsylvania Sales and Use Tax Rulings
No. SUT-99-134
Drop Shipment; Resale

ISSUE

Is sales tax imposed on a Virginia retailer's drop shipment of property within Pennsylvania, when such retailer is shipping the property pursuant to the request of its Massachusetts customer who will be paying the purchase price of the property?

CONCLUSION

As the Virginia retailer has tax nexus with Pennsylvania, sales tax is imposed on the retailer's drop shipment of property within Pennsylvania, when such retailer is shipping the property pursuant to the request of its Massachusetts customer who will be paying the purchase price of the property, unless the Massachusetts customer provides a properly executed exemption certificate.

FACTS

Taxpayer, a Virginia retailer with tax nexus with Pennsylvania, has a Massachusetts customer. This customer requested that Taxpayer drop ship property to a third party in Pennsylvania. The Massachusetts customer will pay Taxpayer's purchase price and separately bill the third party.

DISCUSSION

As you are aware, Pennsylvania's Tax Reform Code imposes a sales tax of six percent of the purchase price on each separate sale at retail of tangible personal property within Pennsylvania. 72 P.S. §7202(a). Therefore, Taxpayer is required to collect sales tax on the sale at retail of property it ships within Pennsylvania, including third party drop shipments. However, the Code also provides that any transfer for a consideration of the ownership of tangible personal property for the purpose of resale in the regular course of business is exempt from tax. 61 Pa. Code §32.3(a)(1)(i). Therefore, if the Massachusetts customer provides a properly executed Pennsylvania exemption certificate to Taxpayer, Taxpayer is relieved of its liability for collecting sales tax from the third party. To properly complete the form, the purchaser must check both the block marked "Pennsylvania Sales Tax Exemption Certificate" and block number three, marked "Property will be resold...." In the space next to that block should be marked "see below." Then, in the blank area at the bottom of the form should be inserted the words "The purchaser makes no taxable sales requiring the purchaser to hold a Pennsylvania Sales, Use and Hotel Occupancy Tax License. The purchased property will be resold in the regular course of the purchaser's business."