

Electronically Delivered Canned Software

Issued: November 1, 2005

On September 15, 2005, the Commonwealth Court in Graham Packaging Company v. Commonwealth, 652 FR 2002 (2005), held that the sale of canned software delivered electronically was subject to Pennsylvania Sales and Use Tax. The decision became final on October 15, 2005, as no exceptions were filed to the Court's order.

As a result, for invoices dated on or after November 1, 2005, the sale or use of all canned software is taxable regardless of the method of delivery. If a vendor collected sales tax on the sale of electronically delivered canned software invoiced prior to that date, the vendor may refund the sales tax to the purchaser or remit the sales tax to the Department on the appropriate sales and use tax return.

All letter rulings and other revenue information contrary to the Court's ruling are rescinded. Statement of Policy 60.19, 61 Pa. Code § 60.19, will be revised to reflect the Court's ruling in Graham Packaging.