



November 8, 2005
Pennsylvania Sales and Use Tax
No. SUT-05-028
Pre-employment Screening

ISSUE

Whether pre-employment screening services of potential employees is a taxable service.

CONCLUSION

Pre-employment screening services, whereby no employees are provided to a client by the entity conducting the screening services, are not subject to Pennsylvania Sales Tax. However, Taxpayer is responsible for the sales tax associated with any materials purchased in conjunction with its non-taxable service.

FACTS

Taxpayer is a human resource service business that provides pre-employment screening services to its clients. The screening services provided for its clients include, but are not limited to, criminal background checks, drug tests, previous employment verification, job fit assessments, and job skills tests. The services are provided either prior to, or shortly after an employee is hired by Taxpayer's clients. Taxpayer does not provide employees to its clients, rather Taxpayer simply screens potential employees identified by the client. Taxpayer does not recruit employees for or place employees with its clients.

DISCUSSION

Article II of the Tax Reform Code of 1971, as amended, provides for the imposition of a sales and use tax on the sale at retail of tangible personal property and certain enumerated services. Two of the enumerated services are: 1) employment agency services, and 2) help supply services.

The term "employment agency services" is defined as the service of attempting to procure or procuring employment for prospective employees or employers. 61 Pa. Code § 60.5. The term "help supply services" is defined as providing temporary or continuing help whereby the help supplied is on the payroll of the supplying person or entity but is under the supervision of the individual or business to which help is furnished. 61 Pa. Code § 60.4.

Based on the information provided by Taxpayer and on a review of the information on Taxpayer's website, it is evident that Taxpayer neither procures prospective employees for its clients, nor provides temporary or permanent help to its clients while retaining the supplied employee on its payroll. Taxpayer is acting solely as a consultant for a client in providing expertise relating to hiring, firing, retention and suitability of identified prospective or current employees for employment with its client; it is not performing a taxable service.

However, Taxpayer should be aware that Taxpayer is required to pay tax on its acquisition costs of any materials or supplies used and/or transferred by Taxpayer in connection with the performance of its nontaxable services.