



Printing Industries of America, Inc.

November 6, 2002

The Honorable Matthew Kisber
State Representative
Tennessee House of Representatives
33 Legislative Plaza
Nashville, TN 37243-0173

The Honorable R. Bruce Johnson
Utah State Tax Commission
210 N 1950 West
Salt Lake City, UT 84134

Re: Sourcing Rules for Direct Mail

Dear Gentlemen:

This letter is in support of the proposed sourcing of direct mail that will be voted on at the upcoming Implementing States meeting in Chicago on November 12th. The Streamlined Sales Tax Project (the Project) unanimously approved this modification during its conference call on October 31, 2002. We believe that this provision is vital to the printing industry and represents a workable solution both to the states and to the consumers of direct mail.

Background

Direct mail relates to printed items that are sent to individual recipients at no charge, typically through the US Postal system. The recipients are designees of the printer's customer. Common direct mail items include catalogues, brochures and various forms of targeted communications.

The taxation of direct mail under the current sourcing rules would present a challenge to even the largest printers in the country. Sourcing on a ship-to basis is very difficult as the mailing lists used to print/image address labels are highly confidential and proprietary, and printing customers mandate that these lists be returned or destroyed after the printing job is complete. Therefore, even if the printers *could* extract the necessary data from these lists, they would have nothing in their files to support their determination of sales tax during a subsequent sales tax audit. Additionally, printers are sometimes provided pre-printed address labels for a printing job, and in such cases have no feasible way to determine sales tax on a destination basis.

The amount of time spent determining sales tax on a destination basis is extremely burdensome for printers, and is often disproportionate to the amount of tax involved. For example, the sales tax due to each state on a \$10,000 direct mail invoice would average around \$15; the amounts due to each city and county would be mere pennies.

Proposal

Several of the larger printers in the industry have been working with the Project's Sourcing Workgroup to develop reasonable rules for the collection of sales/use tax on direct mail. These efforts culminated in the following hierarchy of direct mail sourcing rules that will be presented to the Implementing States for adoption:

1. Customers can give the printer a direct mail exemption form (essentially, a special purpose direct pay permit) and self-assess use tax directly in each of the applicable jurisdictions on a destination basis. The printer is thus relieved of any obligation to collect sales/use tax.

2. Customers can give a printer a distribution list (e.g., the mailing list with the names deleted) so that the printer can use it to collect sales/use tax in all of the applicable jurisdictions on a destination basis. The customer would have to allow the printer to retain this distribution list with its records, and the states would have to accept the list's validity upon an audit of the printer.
3. If the printer's customer provides neither a direct mail exemption form nor a distribution list, then the printer is obligated to collect tax on the entire invoice based upon the location of the facility from which the material is shipped (i.e., "ship-from" basis). This default methodology would not eliminate the customer's obligation to assess use tax in each of the destination jurisdictions. The tax paid to the "ship-from" state may or may not be creditable towards the tax due to the destination state (printers and their customers obviously prefer that the tax be creditable). The Project's intention is to make Alternatives 1 and 2 mandatory. Consequently, the default (Alternative 3) is intentionally less favorable to the customer.

Summary

We encourage the Implementing States to adopt the modification to the sourcing rules for direct mail. Without this provision, small to medium-sized printers would have difficulty handling the multi-state taxation of direct mail, which could prevent them from registering with the Project. If adopted by the Implementing States, we believe that these rules would provide a much-needed measure of simplification to the printing industry, while maintaining the overall integrity and fairness of the taxation of direct mail. The Project states believe that these rules are beneficial as evidenced by their unanimous adoption of the proposal last week.

Respectfully yours,



Benjamin Y. Cooper
Executive Vice President/Public Affairs
Printing Industries of America, Inc.

cc: Diane Hardt, Administrator, Division of Income, Sales & Excise, Wisconsin Department of Revenue
Bill Riesenberger, Legal Counsel, Technical, Sales & Use Tax Division, Ohio Dept. of Taxation
Thacher Smith, Vice President - Taxes, Wallace Computer Services, Inc.
Vytenis Kirvelaitis, Manager, State and Local Taxes, RR Donnelley & Sons Company
Gale Lawler, President, PrintTax Services