



Interim
Executive Director
Marshall Stranburg

TAX: Sales and Use Tax

TAA: 13A-001

ISSUE: Support Services

STATUTE CITE(S): 212.08(7)(v), Florida Statutes (F.S.)

RULE CITE(S): 12A-1.062, Florida Administrative Code (F.A.C.)

QUESTION: Are the Support Services provided by Taxpayer to Parent Group subject to sales and use tax?

ANSWER: These services are professional or personal services and are not subject to tax pursuant to s. 212.08(7)(v), F.S. Taxpayer's preparation and transfer of financial documents to Parent Group, for which no separate charges are made, constitute "inconsequential elements" within the meaning of s. 212.08(7)(v), F.S. Therefore, the transfer of documentation by Taxpayer to Parent Group does not change the result that the Support Services are services not subject to tax.

January 11, 2013

Re: Technical Assistance Advisement – TAA 13A-001
Sales and Use Tax – Support Services
Subsection: 212.08(7)(v), Florida Statutes (F.S.)
Rule: 12A-1.062, Florida Administrative Code (F.A.C.)
Petitioner: XXXX ["Taxpayer"]

Dear XXX:

This letter is a response to your petition dated XXX, for the Department's issuance of a Technical Assistance Advisement ("TAA") concerning the above referenced party and matter. Your petition has been carefully examined and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

Presented Facts

Your petition states that Taxpayer is an indirect wholly owned subsidiary of XXXX (hereinafter “Parent”). Parent’s operating subsidiaries provide XXXX services to customers throughout the United States and in Florida. These XXXX services include XXXX products and services.

Taxpayer is in the business of providing various support services (“Support Services”) to Parent and its subsidiaries (“Parent Group”). These Support Services include:

1. Preparing detailed accounting entries, internal financial reports and receivables, payables, payroll, property, general ledger and financial statements;
2. Oversee the management accounting functions, collecting cost data, instituting cost control measures, preparing labor, material, overhead reports and special cost studies, and reviewing the allocation of overhead costs;
3. Determining the liability of the Parent Group to federal, state, and local taxing authorities for income, license, sales, property, and payroll taxes;
4. Preparing tax returns and supporting schedules, analyzing tax accounting rules and reviewing laws and regulations to ensure timely and correct implementation of tax law changes;
5. Performing internal audit functions for the Parent Group, conducting compliance audits, testing internal controls and information systems, ensuring that company policies and procedures are followed, and establishing processes to discover and prevent fraud;
6. Pursuing tax rulings, providing audit defense, litigating lawsuits brought against and by Parent Group, and ensuring that federal, state, and local tax laws are followed in contracts between Parent Group and their customers.

As part of the performance of the Support Services, Taxpayer prepares various financial documents including financial reports, tax returns, memoranda, and work papers for Parent Group. Taxpayer provides its Support Services reports to the XXXX members by way of electronic mail, overnight mail, and regular mail. Taxpayer does not make a separate charge to Parent Group for the financial documents.

Issue

Are the Support Services provided by Taxpayer to Parent Group subject to sales and use tax?

Taxpayer’s Position

Taxpayer asserts the various Support Services it provides to Parent Group are service only transactions that are excluded from taxation under s. 212.08(7)(v), F.S. Taxpayer also asserts that because it does not make a separate charge for the various financial documents, such documents constitute “inconsequential elements” within the meaning of s. 212.08(7)(v), F.S. Therefore, the transfer of documentation by Taxpayer to Parent Group does not change the result that the Support Services are services not subject to tax.

Discussion, Analysis, and Conclusion

Section 212.08(7)(v), F.S., provides the following:

(v) Professional services.—

1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.
2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term “information services” includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

Rule 12A-1.062, F.A.C., provides in part the following:

(1) The sale of information services involving the furnishing of printed, mimeographed, multigraphed matter, or matter duplicating written or printed matter, other than professional services and services of employees, agents or other persons acting in a representative or fiduciary capacity, are taxable.

* * *

(3)(a) "Information services" means and includes the services of collecting, compiling or analyzing information of any kind of nature, or furnishing reports thereof to other persons. The charge for furnishing information services, such as newsletters, tax guides, research publications, and other written reports of compiled information, which are not produced for and provided exclusively to a single customer, is taxable.

(b) The term "information services" does not include the furnishing of information, including a written report to a person of a personal or individual nature, that is not or may not be substantially incorporated in reports furnished to other persons.

Professional or personal services that do not involve the sale of tangible personal property or only involve inconsequential elements of tangible personal property that are not separately stated are not subject to tax. The furnishing of financial information is not subject to tax when the information is of an individual nature and is not furnished to other parties.

In the instant case, Taxpayer provides Support Services to Parent Group. These Support Services include accounting, tax, legal, and other finance-department related services. Taxpayer provides its Support Service Reports to the XXXX members by way of electronic mail, overnight mail, and regular mail. These services are professional or personal services and are not subject to tax pursuant to s. 212.08(7)(v), F.S. Taxpayer’s preparation and transfer of

financial documents to Parent Group for which no separate charges are made constitute “inconsequential elements” within the meaning of s. 212.08(7)(v), F.S. Therefore, the transfer of documentation by Taxpayer to Parent Group does not change the result that the Support Services are services not subject to tax.

This response constitutes a Technical Assistance Advisement under Section 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for this advice, as specified in Section 213.22, F.S. Our response is predicated upon those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different treatment from that which is expressed in this response.

You are further advised that this response, your request, and related backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of Section 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, the backup material and this response, deleting names, addresses, and any other details which might lead to identification of the taxpayer. Your response should be received by the Department within 10 days of the date of this letter.

Sincerely,

Gary L. Gray
Program Administrator
Technical Assistance and Dispute Resolution
850-717-6777

Control # 137103