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Letter Ruling 84-32: Sales to Federal Government or Commonwealth: Subcontractor's Charges for Recording Information on Magnetic Tape

May 15, 1984

The _____ Department _____ ("Department") has engaged _____ ("Corporation") to develop and operate an automated payment system for Massachusetts _____ claims. Under its agreement with the Department, the Corporation will pay subcontractors to record claims information on magnetic tapes. The agreement provides that the tapes are the property of the Department. You inquire whether the subcontractors' charges for recording the information on magnetic tapes are subject to the sales tax.

Charges for recording information on tangible media generally are taxable, whether the media are furnished by the company that records the information or by its customer. G.L. c. 64H, § 1(12)(b), (e); 830 CMR 64H.06(7).

General Laws Chapter 64H, Section 6(d) exempts from taxation sales to the United States, the Commonwealth of Massachusetts or any political subdivision thereof, or their respective agencies. A purchaser is an "agency" for purposes of this provision only if it is a regularly constituted department of government or an entity wholly owned by the government and exercising exclusively governmental functions. First Agricultural National Bank v. State Tax Commission, 353 Mass. 172 (1967) (reversed on other grounds, 392 U.S. 339 (1968)).

Based on the foregoing, it is ruled that the subcontractors' charges to the Corporation for recording information on magnetic tapes are subject to the sales tax.

Very truly yours,

/s/Ira A. Jackson

Commissioner of Revenue

IAJ:JXD:mf

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