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Letter Ruling 99-10: Sales Tax Record Keeping for Special Athletic Event

April 16, 1999

You request a letter ruling on behalf of ***** (the "Vendor"), a registered Massachusetts vendor. You ask whether the Vendor's sales tax record keeping practices, which do not state the tax amount received on the transaction receipt, but state the tax charged on the taxable item's UPC label, are sufficient under Massachusetts law to be used at a special athletic event (the "Event") to be held at a country club in Massachusetts.

I. Facts

The following is your representation of the facts upon which we base this letter ruling. The Vendor will operate a large merchandise pavilion (the "Pavilion") at the Event. The Vendor will be selling both taxable and nontaxable items of tangible personal property, such as clothing, athletic equipment, and memorabilia. The Pavilion will have forty cash registers or checkout stations. Because of the large number of people expected to attend the Event, the Vendor plans to use a special system to record sales of merchandise.

Under this system, merchandise labels will list the UPC code, the sales price of the item, and the amount of tax where applicable. The sales prices on all taxable items will be set at an amount that will produce a total charge, including the sales tax, that is a whole dollar amount. The purpose of setting the prices at whole dollar amounts is to eliminate the need to use coins in the transactions. The Vendor will post signs in the Pavilion indicating that the sales prices include the tax where applicable. The receipts will also state that the sales prices include the tax, although the receipts will not state the tax amount charged in the transaction. The cashiers will record the transactions by scanning the UPC labels at the cash registers or checkout stations.

The Vendor will support its sales tax returns with a sales journal that is further supported by an item-level detailed report. The report will show the quantity of each item sold, and the tax amount paid per item.

II. Discussion of Law

Massachusetts law imposes a sales tax at the rate of five percent on retail sales of tangible personal property in the state by any vendor. G.L. c. 64H, § 2. A vendor is required to add the tax amount to the sales price of the property, and to collect the tax from the purchaser. G.L. c. 64H, § 3(a). The statute requires that upon each sale of tangible personal property the vendor must state and charge the tax separately from the sales price of the item of property, and must show these separate

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amounts "on any record [of the sale] at the time the sale is made, or on any evidence of the sale issued or used by the vendor." G.L. c. 64H, § 5.

The sales tax record keeping practices proposed by the Vendor conform to these statutory requirements. The Vendor will state the tax amount separately from the sales price on the UPC label, satisfying the requirement that the Vendor add the tax amount to the sales price of the property, under G.L. c. 64H, § 3(a). The receipt, which indicates that the sales price includes the tax, coupled with the UPC label separately stating the tax together comprise the record of the sale issued at the time the sale is made in conformance with the requirement of G.L. c. 64H, § 5. In addition, the Vendor's practice of keeping an item-level detailed report showing the quantity of each item sold, and the tax amount paid per item, satisfies the requirement that the Vendor state and charge the tax separately from the sales price on any evidence of the sale used by the Vendor. See G.L. c. 64H, § 5.

III. Conclusion

The Vendor states that it will label tangible personal property for sale at the Event showing the sales tax amount separately from the sales price on the UPC labels, but not on the receipts. This practice conforms to the statutory requirement that the sales price of an item of taxable tangible personal property must be stated separately from the tax amount. The Vendor's record keeping practices are sufficient to be used at the Event.

Very truly yours,

/s/Frederick A. Laskey

Frederick A. Laskey
Commissioner of Revenue

FAL:DMS:dt

LR 99-10