

[date]

[taxpayer address]

Re: Formal Ruling 17-02

Dear [taxpayer]:

This is a formal ruling for [taxpayer] regarding the application of sales tax to return shipping fees. This ruling is based on representations in your email dated [date].

FACTS

[taxpayer] (Company) sells apparel and accessories over the Internet. With all of its orders, Company encloses a pre-paid return shipping label. If the customer returns the item using the pre-paid label, Company then deducts \$7.00 from the customer's refund.

You have asked for a ruling on whether the \$7.00 is subject to Vermont sales tax.

DISCUSSION

Vermont's sales tax is calculated as six percent of the "sales price" of the taxable item sold. 32 V.S.A. § 9771. In certain Vermont towns and cities, a local option sales tax of one percent also applies to the sales price. 24 V.S.A. § 138. "Sales price" includes "delivery charges." 32 V.S.A. § 9701(4)(A)(iv). "Delivery charges" are the charges made by the seller to the purchaser for delivery of the item "to a location designated by the purchaser." 32 V.S.A. § 9701(26).

Company's \$7.00 charge for shipping the item being returned is not part of a "sales price." Nothing is being sold at this point. The return of the item is a separate transaction.

In addition, the return is not to a location designated by the purchaser, but is to a location pre-designated on the shipping label by Company.

The customer has the choice of using Company's optional return label at a cost of \$7.00, or using any other method of shipping the item back to the seller. There is no sales tax on stand-alone shipping charges which are not part of a retail sale. While the sales tax does apply to "charges by the seller for any services necessary to complete the sale," 32 V.S.A. § 9701(4)(A)(iii), the customer's use of Company's optional return shipping service is not "necessary to complete the sale;" at that point, the sale has already been completed.

For these reasons, your \$7.00 charge for the use of your prepaid return shipping label is not subject to sales tax.

When you process a return from a customer who used your return label, you stated that you reduce the customer's refund by \$7.00. In actuality, you are not reducing the refund; you are charging the customer \$7.00 for the return shipping cost, and netting that out of the sale refund. You are also not reducing your taxable receipts for the item purchased, and should not show a negative sale of \$7.00 on your next sales tax return. Instead, you should refund to the customer the original purchase price plus all of the sales tax on that sale, minus the new \$7.00 nontaxable shipping charge.

GENERAL PROVISIONS

Issuance of this ruling is conditioned upon the understanding that neither the taxpayer nor a related taxpayer is currently under audit or involved in an administrative appeal or litigation concerning the subject matters of the ruling. This ruling is issued solely to the taxpayer and is limited to the facts presented, as affected by current statutes and regulations.

Other taxpayers may refer to this ruling, when redacted to protect confidentiality, to see the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statutes or regulations.

This ruling will be made public after deletion of the taxpayer's name and any information which may identify the taxpayer. A copy of this ruling showing the proposed deletions is attached, and you may request within 30 days that the Commissioner delete any further information that might identify the taxpayer. The final discretion as to deletions rests with the Commissioner.

You have the right to appeal this ruling within 30 days. 3 V.S.A. §§ 808, 815.

Emily Bergquist

Date

Approved:

Kaj Sansom
Commissioner of Taxes

Date