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Tax: Sales and Use Tax

This Technical Bulletin describes exemptions in the Sales and Use Tax Act for sales of certain tangible personal property and certain services used in the production of film and video for sale, as well as an exemption for the sale of certain films and other recorded materials.

Exemption for Tangible Personal Property Used in the Production of Film and Video for Sale

The Sales and Use Tax Act provides an exemption for receipts from the sale, lease, or rental of tangible personal property that is used directly and primarily in the production of film or video for sale. N.J.S.A. 54:32B-8.49(a). For the purposes of the exemption, production does not end until the film or video is in the form in which it will be sold.

The statute defines film or video as "motion pictures including feature films, shorts and documentaries, television films or episodes, similar film and video productions whether for broadcast, cable, closed circuit or unit distribution and whether in the form of film, tape, or other analog or digital medium." Excluded from the definition of "film or video" is "any film or video that is produced by, or on behalf of, a corporation or other person for its own internal use for advertising, educational, training, or similar purposes." N.J.S.A. 54:32B-8.49(c).

The following are some examples of tangible personal property used directly and primarily in the production of film or video for sale:

- Cameras and accessories, such as lenses
- Microphones, amplifiers, and similar recording or sound equipment
- Audio/visual mixing and editing equipment
- Replacement parts for exempt tangible personal property without regard to their useful life
- Materials used in set construction
- Dollies, including grips and tracks
- Props used in the film or video, including motor vehicles
- Motor vehicles used to mount cameras and equipment used for filming
- Wardrobes
- Makeup and cosmetics

Because this exemption is for tangible personal property used directly and primarily in the production of a film or video, it does not apply if the property is used incidentally to the production. The following are some examples of tangible personal property used incidentally to the production of film or video:

- Catering, restaurant meals, or other prepared food
- Office equipment and supplies
- Motor vehicles used to transport equipment and personnel

Exemption for Services to Tangible Personal Property Used in the Production of Film and Video for Sale

In addition to the exemption for tangible personal property used directly and primarily in the production of film or video for sale, receipts for the installation, maintenance, servicing, and repairing of such property are also exempt. N.J.S.A. 54:32B-8.49(b). The following are some examples of services that may be performed on tangible personal property that is used directly and primarily in the production of film or video for sale:

- Repairs to recording equipment
- Maintenance to video production equipment
- Construction of a set

Exemption for the Sale of Films and Other Recordings

The Sales and Use Tax Act provides an exemption for the sale of, or license to use, films, records, tapes, or any type of visual or sound transcriptions when sold to theaters, radio, and television broadcasting stations or networks regardless of the manner in which the recording is transferred to the buyer. N.J.S.A. 54:32B-8.18. This exemption applies only to recordings that are transcribed to, or produced to be shown in theaters or broadcasted on radio, and television broadcasting stations or networks.

The exemption does not apply when the recordings are used for advertising purposes. N.J.S.A. 54:32B-8.18.

Documenting Exemptions

In order to document the exemptions under N.J.S.A. 54:32B-8.49 or N.J.S.A. 54:32B-8.18, the purchaser must give the seller a fully completed Exempt Use Certificate (Form ST-4) or Streamlined Sales and Use Tax Certificate of Exemption (Form ST-SST).

Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.