



Processing of human tissue

LR: 2017-1-SUT – Issued June 1, 2017

Tax: Sales and Use Tax

Taxpayer requested a Letter Ruling regarding the application of the New Jersey Sales and Use Tax Act to charges for processing human tissue donations by behalf of Taxpayer.

Facts

Founded in 2000, Taxpayer is a non-transplantable human tissue bank that provides services associated with the processing, storage, preparation and transportation of tissue specimen to clients for medical research and training purposes. The Taxpayer's customers include medical facilities, hospitals, universities, academic medical centers, medical training organizations and medical device manufacturers, among others.

Taxpayer receives donated human bodies shortly after the time of death in order to provide the medical community with either complete, intact cadavers, or portions of human tissue according to its customers' specific needs associated with their training and research requirements. Taxpayer makes no payments to a donor's estate or their family for the donated remains. Highly skilled experts are used to remove parts in such a way as to preserve the integrity and usefulness of those bodies and requested tissue for specific training and research purposes. Any tissues that are not recovered for a qualified use are cremated and either disposed of or returned to the next of kin upon request.

The fees which Taxpayer lists and charges are an aggregate reflection of the services it provides related to its tissue removal, processing, preservation, storage, transportation and disposal, and are allowable under applicable New Jersey statutes.

Issue

Whether Taxpayer's charges for the removal, processing, preservation, storage, transportation and disposal of cadavers and human tissue are subject to Sales Tax.

Discussion

The New Jersey Sales and Use Tax Act imposes tax on the retail sale of tangible personal property and enumerated services unless a valid exemption exists. N.J.S.A. 54:32B-3. Due to the nature of the property, human tissue is not considered to be tangible personal property for purposes of the Sales and Use Tax Act. See New Jersey State Tax News, p. 10 (Fall 2010).

Although services associated with tangible personal property, such as processing, servicing, repair, and storage, are subject to Sales Tax, N.J.S.A. 54:32B-3(b), because human tissue is not considered tangible personal property, charges for services associated with the exchange of human tissue for transportation and research purposes are not subject to Sales Tax.

Conclusion

Taxpayer's charges for the services associated with the removal, processing, preservation, storage, transportation and disposal of cadavers and human tissue are not subject to Sales Tax.

A Letter Ruling is limited to the facts set forth therein and is binding on the Division of Taxation only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. A Letter Ruling is based on the law, regulations, and Division policies in effect as of the date the Letter Ruling is issued or for the specific time period at issue in the Letter Ruling.