

ALABAMA DEPARTMENT OF REVENUE
REVENUE RULING 04-003

This document may not be used or cited as precedent. Ala. Code § 40-2A-5(a) (2003 Replacement Volume).

TO:

FROM: Commissioner of Revenue
Alabama Department of Revenue

DATE: October 27, 2004

RE: Applicability of Alabama sales and use tax to specific fees for services provided by a taxpayer.

ISSUES AND FACTS

The facts as represented by the Requestor are as follows:

Taxpayer will provide health and medical record processing services to attorneys, insurance companies, governmental entities, patients, physicians, hospitals, and other requesting parties, hereinafter (“customers”). Taxpayer’s services will be performed by Taxpayer’s employees utilizing equipment (i.e. laptop computers, scanners, etc. ...) provided by Taxpayer. These services will be performed by Taxpayer’s employees from hospitals, physicians’ offices, or employees’ home offices; which are located in the State of Alabama.

In practice, upon Taxpayer’s receipt of a request from customers for a copy of a patient’s health and medical records, hereinafter (“information”), Taxpayer will visit the hospital, physician’s office, or other location where the particular information is located. Upon arriving at the hospital, physician’s office, or similar location where the particular information is located, employees may facilitate the customer’s request by either one of two methods.

METHOD ONE

Method One encompasses Taxpayer utilizing a laptop computer, scanner, or other similar electronic medium to electronically “scan” and save the requested information. Upon securing the scanned information, the employee electronically transmits the scanned information to Taxpayer’s facility located outside Alabama. When the information is received at Taxpayer’s facility, the information will be processed and, depending on the customer’s election, either an electronic version of the information will be transmitted to the customer or a hardcopy version will be printed and mailed to the customer.

METHOD TWO

Method Two encompasses an employee visiting the hospital, physician's office, or location where the medical records and related information are located to physically photocopy the requested information. Upon the requested information being photocopied, the employee will subsequently mail the requested information to the customer from the hospital, physician's office, or location where the medical records and related information are located.

INVOICE COMPONENTS

Upon providing any of these services, the Taxpayer will invoice the customer a separately stated charge for the requested service. The various possible components of a typical future transaction, and an explanation of each component, are listed as follows:

Basic/ Retrieval Fee: A separately stated flat fee charged for locating the records.

Quickview Delivery Fee: A separately stated fee to electronically access and view the contents of the delivered information via the Internet.

Per Page Fee: A separately stated fee for each page of the medical record that is either scanned or photocopied.

Postage Fee: A separately stated fee for the postage associated with mailing a hard copy of the individual's medical record. This fee does not contain a markup for profit.

Handling Fee: A separately stated charge, distinct from the charge for postage, associated with mailing a hardcopy of the individual's medical record.

E-Disclose Fee: A separately stated fee to track and confirm the status of the information being delivered.

Certification Fee: A separately stated fee to certify the information.

Notarization Fee: A separately stated fee to notarize the information.

Deposition Fee: A separately stated fee to affirm that the information is suitable to be utilized in a legal deposition.

Docustore Fee: A separately stated fee to electronically store the information.

ISSUES

Since Taxpayer will provide employees with tangible personal property (scanners and computers) to perform the above services within the State of Alabama, the Taxpayer has concluded that it will have nexus for sales and use tax purposes. Consequently, the Taxpayer would like the State's assistance concerning the following:

1. Will the separately stated "Basic/Retrieval Fees", as defined above, be subject to sales tax?
2. Will the separately stated "Quickview Delivery Fees", as defined above, be subject to sales tax?
3. Will the separately stated "Per Page Fees", calculated on a per page basis for photocopying information be subject to sales tax?
4. Will the separately stated "Per Page Fees", calculated on a per page basis for scanning information into an electronic format be subject to sales tax?
5. Will the separately stated "Postage Fees", as defined above, be subject to sales tax?
6. Will the separately stated "Handling Fees", as defined above, be subject to sales tax?
7. Will the separately stated "E-Disclose Fees", as defined above, be subject to sales tax?
8. Will the separately stated "Certification Fees", as defined above, be subject to sales tax?
9. Will the separately stated "Notary Fees", as defined above, be subject to sales tax?
10. Will the separately stated "Deposition Fees", as defined above, be subject to sales tax?
11. Will the separately stated "Docustore Fees", as defined above, be subject to sales tax?
12. Will the scanners, laptop computers, and similar electronic media utilized in Method One and/or Method Two services be deemed processing equipment so as to be exempt from sales and use tax when purchased?

LAW AND ANALYSIS

1. Basic/Retrieval Fee - This activity will be subject to tax if in connection with providing a tangible photocopy of the medical record. See Sales and Used Tax Rule 810-6-1-.84.
2. Quickview Delivery Fees - This is a nontaxable service in accordance with Ala. Code §40-23-2.
3. Per Page Fee for Photocopying – This activity will not be subject to tax if it in connection with providing an electronic copy of the medical record. See Alabama Sales and Use Tax Rule 810-6-1-.84.
4. Per Page Fee for Scanning – This is a nontaxable service in accordance with Ala. Code §40-23-2.
5. Postage Fees - The postage fees are nontaxable. See Alabama Sales and Use Tax Rule 810-6-1-.178.
6. Handling Fees – Handling fees will be subject to tax if in connection with providing a tangible photocopy of the medical record. See Alabama Sales and Use Tax Rule 810-6-1-.84.
7. E-Disclose Fees – This is a nontaxable service in accordance with Ala. Code §40-23-2.
8. Certification Fees – This is a nontaxable service in accordance with Ala. Code §40-23-2.
9. Notary Fees – Notary fees are a nontaxable service in accordance with Ala. Code §40-23-2.
10. Deposition Fees – This is a nontaxable service in accordance with Ala. Code §40-23-2.
11. Docustore Fees – This is a nontaxable service in accordance with Ala. Code §40-23-2.
12. Scanners, laptop computers, and similar electronic media utilized in Method One and/or Method Two services will be subject to tax in accordance with Ala. Code §§40-23-2 and 40-23-61.

HOLDING

The Quickview Fee, Per Page Fee for scanning, Postage Fee, E-Disclose Fee, Certification Fee, Notary Fee, Deposition Fee, and Docustore Fee, as described are not subject to Alabama sales or use tax. The Basic/Retrieval fee, Per Page Fee for

photocopying, and Handling fees, will only be subject to tax if in connection with providing a tangible photocopy of the medical record. Alabama sales or use tax is due when purchasing equipment such as scanners, laptop computers, and similar electronic media in accordance with Ala. Code §§40-23-2 and 40-23-61.

G. THOMAS SURTEES, Commissioner
Alabama Department of Revenue

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