

Date Issued: April 16, 2015
Georgia Letter Ruling: LR SUT-2015-03
Topic: Service Provider-Information Services

This letter is in response to your request for guidance on the application of Georgia sales and use tax to online health information services.

Facts Presented by Taxpayer

Taxpayer provides health related information services to [Redacted] which will in turn provide these services to its employees. The mission and purpose of Taxpayer is to promote healthy lifestyles and encourage personal health management by providing comprehensive education, skill sets, and tools to implement healthy habits on a daily basis. The service consists of two components. It will be provided online through a web-portal and annually in person through a representative of Taxpayer. The web portal provides the participant delivery of nutrition, exercise, and general health information. A primary benefit to the customer is the employees' interaction and tracking of their personal information. The participant has the ability to establish an individual personal portal to record various items, such as logs of physical activity, eating habits, weight, etc. Taxpayer also provides an annual biometric health assessment, which consists of a questionnaire and general blood/lipid panel provided by licensed medical personnel. The personal results collected are reported back to the individual through the web portal. It is contemplated that [Redacted] may utilize this health service to provide incentive rewards to employees who achieve certain benchmarks.

Taxpayer has developed the agenda for the health service and the software utilized in providing this service internally. Sales tax has been paid on all applicable services and products utilized in the development of the service.

Issue

Is Taxpayer's online health information service subject to Georgia's sales and use tax?

Analysis

Georgia levies and imposes a tax (subject to certain specific exemptions) on the retail purchase, retail sale, storage, use, or consumption of tangible personal property, certain enumerated services, and utilities.¹ Unlike sales of tangible personal property, which are generally presumed to be taxable, sales of a service are not subject to tax unless the service is specifically designated as taxable. Although "sale" and "retail sale", both defined in O.C.G.A. § 48-8-2, include certain services, the online health information service provided by Taxpayer does not fall within the scope of the services designated as taxable by that code section.

¹ O.C.G.A. §§ 48-8-1; 48-8-2(31) and (33); and 48-8-30.

Ruling

Taxpayer's online health information service is not a taxable service.²

The opinions expressed in this ruling are based upon the information contained in your request and limited to the specific transactions, facts, circumstances and taxpayer in question. Should the circumstances regarding the transactions change, or differ materially from those represented, then this ruling may become invalid. In addition, please be advised that subsequent statutory or administrative rule changes or judicial interpretations of the Statutes or Rules upon which this advice is based may subject similar future transactions to a different tax treatment than that expressed in this response.

² Taxpayer provided that it has paid sales tax on all applicable services and products utilized in the development of the service. It should be noted that Taxpayer is also responsible for sales and use tax on any items that it uses in the provision of its service.