

Date Issued: April 4, 2016
Georgia Letter Ruling: LR SUT-2016-10
Topic: Packaging Supplies

This letter is in response to your request for guidance on the application of Georgia sales and use tax to parchment sheets sold by Taxpayer.

Facts as Presented by Taxpayer

Taxpayer sells parchment sheets to its Purchasers throughout Georgia. While ultimately used to package a food item for shipment or sale, parchment sheets are initially used by the Purchasers in the preparation of the food item sold. A food item is placed on the parchment sheet and then onto a baking screen. The food item, parchment sheet, and baking screen are then placed in an oven where the food item is baked. When the food item is removed from the oven, the parchment sheet and food item are placed into a clam shell box for shipment and sale.

Issue

How is tax appropriately applied to Taxpayer's sales of parchment sheets to Purchaser when the parchment sheets sold are first used by the Purchasers in the food item preparation process but subsequently are used to package the food item for shipment or sale?

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 Tangible personal property used or consumed by a restaurant is subject to tax.² Accordingly, parchment sheets used for cooking are taxable to the Purchaser.

Although Georgia law provides an exemption for packaging materials, the exemption does not apply in this case.³ The exemption applies to "containers and packaging materials used in a trade or business for packaging tangible personal property for shipment or sale if such items are used solely for packaging and are not purchased for reuse by the seller or shipper of the tangible personal property."⁴ Because Taxpayer's Purchasers use the individual parchment sheets in the baking process, the parchment sheets are not used solely for packaging and thus do not qualify for the packaging exemption.

Ruling

Based on the facts provided, Taxpayer must charge tax on its sales of parchment sheets to Purchasers.

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, this ruling may become invalid. Subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this ruling is based may subject similar future transactions to different tax treatment than that expressed in this ruling.

¹ O.C.G.A. §§ 48-8-1, 48-8-2(31)(A), 48-8-30.

² Ga. Comp. R. & Regs. r. 560-12-2-.115(6)(e)(1).

³ O.C.G.A. § 48-8-3(94).

⁴ O.C.G.A. § 48-8-3(94); Ga. Comp. R. & Regs. r. 560-12-2-.25(2).