

Transportation, Shipping, Handling...oh my! What's in a name?

By Richard A. Vallari CPA, CMI

With tax season in full gear, I thought this month's sales tax article should be an easy read for tired practitioner eyes.

One of the most challenging and often misunderstood areas of sales and use tax compliance is the proper taxability of transportation, handling and related charges. Consideration must be given to the presentation of the charges on the invoice and the shipping terms. To complicate matters, states are not consistent in the treatment of these charges.

In Nevada, it is important to remember these key points:

1. If the sale is exempt, these charges are exempt.
2. Third party freight charges, such as those by common carrier, are always exempt.
3. Handling, crating, and packing charges are part of the tax base and always taxable if the sale is taxable.

Nevada is challenging because there are two sets of rules that may apply if your client is being audited. Two sets are the result of directives written into Assembly Bill 403 during the 75th Session of the Nevada State Legislature. This Bill was enacted as a necessity for Nevada to adhere to the rules of The Streamlined Sales and Use Tax Agreement. Currently, if your client's audit spans through the transition date of May 22, 2009, be aware different rules for freight, shipping, and related charges will apply. The transition date is simply when NRS Chapter 360B goes into effect, and puts the taxability of these charges in line with the requirements of Streamlined. Transportation, shipping, postage and similar charges invoiced after the transition date are exempt if separately stated, regardless of the shipping terms. However, handling, crating,

packing, preparation for mailing or delivery, and similar charges remain taxable.

Prior to May 22, 2009, the Nevada Tax Commission adopted a permanent regulation concerning the taxability of freight charges that became effective August 5, 2002. First and foremost, freight must be separately stated on the customer invoice. Next, in order for freight charges to be exempt, the terms regarding the freight must be F.O.B. origin. The purchaser will be deemed to have accepted title to the property prior to its delivery only if the retailer and purchaser have executed a written agreement clearly stating their intention that title should pass to the customer prior to delivery. Absent such a written agreement, the retailer is responsible for collecting sales tax on the freight charge.

Finally, it should be noted that regardless of the transition date, if charges are lumped with freight such as handling, the whole charge is considered taxable. In this instance, freight should always be separately stated from other charges to avoid taxability.



Rich is the founder of Southwest Sales Tax Solutions, LLC. He has over 20 years of experience handling sales and use tax issues. His company specializes in sales and use tax audit representation and consulting. Rich is a licensed CPA,

a member of the Nevada Society of CPAs and the American Institute of Certified Public Accountants. Rich is also a member of the Institute for Professionals in Taxation, earning his designation as a Certified Member of the Institute in Sales Tax (CMI). Rich may be contacted at (702) 233-0049 or at rvallari@cox.net. Visit www.swsalestax.com for more information.