

INFORMATIONAL BULLETIN FY86-54

TO: All Registered Retailers

SUBJECT: Sales Tax Liabilities of Video Tape Rental Businesses

This bulletin is directed to you if you are in the business of renting video tapes or other tangible personal property (except automobiles) to your customers.

We have received a number of inquiries lately concerning the sales tax liabilities of video tape rental businesses. Because so many businesses now participate in video tape rentals, it seemed appropriate to share these questions and answers with all of our registered taxpayers. Please understand that, with the exception of automobile rental businesses, the sales tax liability of rental businesses does not depend on the type of tangible personal property that is available for rent. That is, what is true for video tapes is also true for tilecutters and tablecloths.

Therefore, you may find the following information helpful even if you rent something other than video tapes to your customers.

GENERAL GUIDELINES

1. Buy Tapes to Rent

If you buy video tapes in order to rent them to your customers-putting them in your rental inventory-you owe tax based on your purchase price. You owe tax because you intend to use the tapes in your business (i.e., the tapes remain in your ownership even when they are temporarily in the possession of your customer). Sales tax is due whenever an item such as a video tape is purchased for use.

You will normally pay the tax on purchases of rental tapes to your supplier. However, if you don't pay the tax to your supplier, you must self-assess the tax on line 12 of your sales tax return

2. Buy Tapes to Sell —

If you buy video tapes in order to sell them to your customers-putting them in your sales inventory-you do not owe tax at the time of purchase, because no tax is due when an item is purchased for resale.

3. Sell New or Used Tapes

If you are in the business of selling video tapes at retail, you must collect sales tax from your customers on all of your retail sales of new and used tapes.

If you are not in the business of selling tapes at retail, you must collect sales tax from your customers on all of your retail sales of new

and used tapes.

Note: You are "in the business of selling tapes at retail" if you regularly have tapes (blank or recorded) available for sale to customers for their own use. You may be in the business of selling at retail regardless of the volume of retail sales, and even if you don't maintain a separate sales inventory. You are not in the business of selling tapes at retail if you are exclusively a lessor and sell your old tapes only after those tapes have worn out or are otherwise no longer useful to you in your rental business.

Page 2

FY86-54

You do not owe sales tax on receipts you receive from renting tapes.

The questions and answers below explain both whether certain special or unusual transactions are taxable and how to pay the tax that you owe.

1. What if I don't maintain separate rental and sales inventories?

A. In such a case, the tax treatment of tapes which you acquire depends on the source of most of your video tape income (i.e., income from the rentals and sales of blank and recorded tapes). If most of your video tape income is derived from rentals, you are primarily a lessor (renter). If you know that you will sell a certain percentage of your purchased tapes new, you may give your supplier a blanket certificate of resale, stating the percentage that you are buying for resale. You must pay tax on all other purchases.

If most of your video tape income is from sales, you are primarily a retailer (seller). You may purchase your entire inventory by providing a certificate of resale to your suppliers. You may use tapes for rental purposes without paying tax on their acquisition if they are used as a demonstration to potential buyers or for another interim use.

Note: If you are exclusively a lessor, you will of course maintain only a rental inventory and you will owe tax at the time of purchase on every tape that you buy from your suppliers. In other words, you may not maintain that you are buying tapes for resale.

2. What if I thought I was going to sell a tape but instead I decided to rent it to my customers (or vice versa)?

A1. If you move a tape from your sales inventory to your rental inventory, you must pay the tax that you would have paid if you had originally put the tape in your rental inventory. To pay the tax, you must self-assess the amount due, on line 12 of the return that you file for the month in which you move the tape to your rental inventory.

A2. If you move a tape from your rental inventory to your sales inventory, you must collect tax from your customer when you sell the tape (Guideline #3). In addition, you may take a deduction for some or all of the tax you originally paid to your supplier. For more information, see Question #3.

3. What if I sell a tape after I have already used it for some time as a

rental tape?

A. If you are in the business of selling tapes at retail, you must charge tax on the retail sale (Guideline #3). In addition, if you paid tax to your supplier when you acquired the tape, you may take a deduction on your return for the amount of tax you already paid, to the extent that it does not exceed the amount you collected from your customer for the sale of that tape. For an illustration of how to report such a deduction, see the examples below.

FACT: You bought the tape for \$50.00 and paid 3.00 in tax to your supplier.

Example #1

You sold the tape for \$100.00 collected \$6.00 in tax from your customer.

Line 1 Include \$106.00 from sale of tape.

Line 16 (of the ST-1 worksheet) Deduct \$53 and identify as "Tax paid to supplier."

Example #2

You sold the tape for \$1.00 and collected \$.06 in tax from your customer.

Line 1 Include \$1.06 from sale of tape.

Line 16 (of the ST-1 worksheet) Deduct \$1.06 and identify as "Tax paid to supplier."

Note: If you self-assessed the tax on your own return (rather than paying the tax to your supplier), you may recover the previously paid tax by filing a claim for credit (see Form ST1-X). You may not take the deduction described above.

Page 3

FY86-54

4. I have never paid tax on tapes which I have bought for rental purposes.
How do I pay the back taxes that I owe?

A. First, check your records to find out when you made the purchases on which you still owe tax. Then complete an amended Form RR-I-A for each liability period for which you owe back sales taxes. Include on your amended return only those taxable amounts which you did not report when you filed your original return, including applicable penalty and interest. You may mail all your amended returns in the same envelope if you wish.

When you complete your returns, please remember to check the box marked "amended" and to write the liability period (month and year, if you're a monthly filer) in the appropriate space as in the example below.

If you have any additional questions or need blank sales tax returns, please call or write. Our address and telephone numbers are at the top of this bulletin.

J. Thomas Johnson
Director of Revenue