



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

GRETCHEN WHITMER  
GOVERNOR

RACHAEL EUBANKS  
STATE TREASURER

October 27, 2022

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Re: Request for Technical Advice Letter re Sales Tax Treatment of Warranties

Dear [REDACTED]:

Thank you for your letter of September 23, 2022, requesting a Technical Advice Letter regarding the Michigan sales tax treatment of certain warranties sold by your company.

Your request meets the requirements for a Technical Advice Letter pursuant to Revenue Administrative Bulletin 2016-20. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED] [REDACTED]

**Factual Background:**

[REDACTED] [REDACTED] [REDACTED] [REDACTED] ([REDACTED]), which is headquartered outside of Michigan, is a financial products division of a manufacturer of [REDACTED]. [REDACTED] provides “finance solutions” to customers and dealers for [REDACTED] machinery, equipment and vessels. One of the financial solutions products offered by [REDACTED] is a [REDACTED] ([REDACTED]), which the letter describes as “a warranty that includes an equipment protection plan, a current purchase for a future delivery of parts for ‘do it yourself repairs,’ and limited equipment monitoring.” [REDACTED] are offered for new, used, and aftermarket machines with varying coverage periods. The [REDACTED] is invoiced as one bundled charge and separate components of the [REDACTED] are not broken out. The letter then states: “For purposes of this analysis, we have assumed that the [REDACTED] is taxable in the state.”

The letter further explains that the [REDACTED] are sold to customers through a network of unrelated dealers located throughout the United States. Dealers sell [REDACTED] equipment to customers and facilitate sales of [REDACTED] which, although sold by the dealers, are contracts between [REDACTED]

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and the customer. In order to simplify invoicing, some dealers intend to begin issuing a single invoice to customers when selling both equipment and ██████████. The letter clarifies that ██████████ would not be mentioned on the invoice, even though in all cases, the ██████████ would still be between ██████████ and the customer. The letter explains that the dealers “believe that this will facilitate a single process where tax can be collected and remitted to the state on their direct sales of equipment as well as the ██████████.”

**Issues Presented:**

The letter then requests technical advice on the following three issues:

- Where a dealer issues a single invoice containing a line-item charge for the ██████████ warranty, and the dealer collects and remits sales tax for the entire invoice which includes charges for the equipment and for the ██████████, which party is ultimately liable for the tax?
- If the dealer is responsible for collection and remittance of tax on the sale of the ██████████ warranty, is the dealer a marketplace facilitator by virtue of its role in facilitating the sales of ██████████, a marketplace seller?
- Can the sale of the ██████████ be considered two sales – the first sale being a sale for resale from ██████████ to the dealer, and the second sale being from the dealer to the end customer?

The legal analysis set forth in the letter encourages the Department to conclude that the dealers selling ██████████ equipment are legally the “agents” of ██████████ acting on that entity’s behalf, that the dealers should be considered marketplace facilitators that facilitate sales made by ██████████, and finally, that the dealers are simply resellers of the ██████████. Under any or all of these three theories, ██████████ maintains that the dealers, and not ██████████, would be responsible for the collection and payment of Michigan sales tax on the ██████████.

**Discussion:**

In essence, the letter instructs the Department to assume that the ██████████ at issue are subject to sales tax in Michigan, then posits three alternative legal theories to encourage the Department to conclude that, in every case, the dealer is wholly responsible for the collection and remittance of that sales tax, rather than ██████████. However, the legal theories advanced by ██████████ are only subject to analysis against the factual background if the stated assumption regarding the underlying taxability of the ██████████ is valid. With respect to Michigan sales tax, the assumption cannot be considered valid. Therefore, the Department is unable to accept ██████████ stated taxability assumption and respond to the specific questions asked in the letter. Instead, we hope it will be useful to provide a brief explanation of the taxability of warranties in Michigan.

In Michigan, only mandatory manufacturer warranties sold as part of an original purchase of equipment are subject to sales tax, and in that case, the cost of the mandatory warranty is considered to be part of the overall equipment purchase price. Any time that a warranty is separately stated on the invoice and is optional or is otherwise separated from the original purchase of equipment – for example, when an optional or extended warranty is purchased at the same time new equipment is purchased, an optional or extended warranty is purchased after the sale of equipment, an optional or extended warranty is purchased in connection with used

