

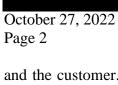
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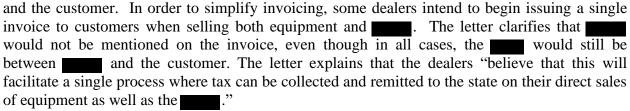
STATE OF MICHIGAN DEPARTMENT OF TREASURY LANSING

RACHAEL EUBANKS STATE TREASURER

October 27, 2022

Re: Request for Technical Advice Letter re Sales Tax Treatment of Warranties
Dear :
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.
Factual Background:
Michigan, is a financial products division of a manufacturer of provides "finance solutions" to customers and dealers for machinery, equipment and vessels. One of the financial solutions products offered by is a provides "finance (provides), 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."
invoiced as one bundled charge and separate components of the are not broken out. The letter then states: "For purposes of this analysis, we have assumed that the is taxable in the state."
The letter further explains that the are sold to customers through a network of unrelated dealers located throughout the United States. Dealers sell equipment to customers and facilitate sales of which, although sold by the dealers, are contracts between 430 WEST ALLEGAN STREET • LANSING, MICHIGAN 48922





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 warranty, 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 unit. 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 unit.

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

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equipment, or an optional or extended warranty is purchased on a stand-alone basis, wholly separate from the purchase of any equipment – the warranty sale will not be subject to Michigan sales tax.

The sale of an optional or extended warranty is, in essence, a sale of nontaxable services. This is the reason that the various legal theories advanced by are inapplicable. The theories depend on the fact that the underlying transaction constitutes a sale of tangible personal property, a fact which is not accurate in this case. For instance, a marketplace facilitator is defined under Michigan statute, in part, as a person that facilitates retail sales on behalf of marketplace sellers by listing or advertising tangible personal property or taxable services. MCL 205.52d(11)(b)(i).

Although the customer's purchase of an optional or extended warranty that is separately stated on the invoice is not taxable, after such a warranty is sold, any parts or other tangible personal property used to fulfill the warranty terms will be subject to tax. For example, if the manufacturer offers the optional warranty, as appears to be the situation in this case, sales tax will be due on the price that the dealer charges the manufacturer for reimbursement for the parts used to fulfill the warranty. Mich. Letter Ruling 85-17. Additionally, if the contract sold is only for equipment maintenance services that will be provided by the dealer, such as oil changes or hydraulic systems checks, the agreement would be considered an extended maintenance contract rather than a warranty, and though the contract will not be taxable upon sale to the customer, as with optional warranties, the service provider will be required to pay tax on any tangible personal property – such as oil – used to fulfill the extended maintenance contract. Mich. Letter Ruling 88-30.

We hope that you find the information in this letter helpful, even though we found it necessary to analyze the issue presented in a different way and were unable to provide responses to the specific questions asked in your letter. Please feel free to contact me if you have any further questions regarding this matter.

Very truly yours,

David Matelski Administrator, Tax Policy Division

