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## Opinion of the Tax Commissioner

Date Issued: March 2, 1993

Opinion No: 93-0001

Tax: Sales

XXXX  
XXXX  
XXXX

Subject: Employment Placement

This request for an opinion of the Tax Commissioner was received January 21, 1993. Specifically, it concerns the application of the sales tax to the services provided by XXXX ("Taxpayer").

The Taxpayer has stated the following factual circumstances.

1. The Taxpayer is a multi-state human resources consulting firm affiliated with an international network of similar firms that specialize in career transition services.
2. The Taxpayer's approach is to work with employers to create programs that are necessary when organizational change is caused by new ownership, mergers and acquisitions, growing or dwindling markets, evolving technology, corporate restructuring, and other change related causes.
3. The Taxpayer's has four main areas of specialization: (1) outplacement planning and assistance; (2) organizational development and renewal services; (3) dual income career management assistance; and (4) leadership development consulting.
4. In each of the above areas, the Taxpayer receives a fee for the services rendered. This fee is paid before any services are rendered to the employer and are payable in any event.
5. In exchange for these fees, the Taxpayer provides to the employees of the employer consulting services, offices, career research library, re-employment workshops, access to telephones, and other related services.
6. In no event does the Taxpayer receive payment from any employee of the employer or from any company from whom an employee may obtain a job. In some cases, the Taxpayer may make referrals to an employment recruiter. However, in these cases, no payment is ever made by the recruiter to the Taxpayer.
7. Also, in no event does the Taxpayer actually locate or find employment for a person. Instead, it provides the facilities to enable persons to find employment on

their own. The responsibility for finding employment is always on the person using the Taxpayer's services. For example, the Taxpayer never sets up interviews for persons or contacts potential employers with respect to job opportunities. Any contact the Taxpayer has with potential employers is solely to determine on a general basis if they are hiring.

#### QUESTION FOR WHICH AN OPINION IS REQUESTED

Are the service provided by the Taxpayer "employment placement services" subjects to sales tax under R.C. 5739.01(B) (3) (1)?

#### OPINION

Section 5739.02 of the Ohio Revised Code levies an excise tax on each retail sale made in the state of Ohio. Am. H.B. 904 effective January 1, 1993, amended section 5739.01(B) so as to include within the meaning of "sale" or "selling" employment placement services. Therefore, as of January 1, 1993, the rendering of an employment placement service became a transaction upon which Ohio sales tax is to be charged. "Employment placement service" is defined in section 5739.01(KK) as the locating or finding employment for a person or finding or locating an employee to fill an available position."

Employment placement service is a narrowly defined term. Simply put, the sales tax applies to fees, commissions or other charges that a person pays for securing employment; that an employer pays for finding a person for a position; or that a person or company pays for finding or locating a position for a person.

Based upon the information presented, the Taxpayer's service does not meet the definition of an employment placement service. Employers which have undergone some type of organizational change resulting in the need to abolish jobs use the Taxpayer to provide what are essentially consulting services to the redundant employees. Accordingly, it is the opinion of the Tax Commissioner that this is not an "employment placement service".

This opinion applies to the Taxpayer and its property only. It may not be transferred or assigned.

In addition, the tax consequences state in this opinion may be subject to change for any of the reasons stated in R.C. 5703.03 (c). It is the duty of the Taxpayer to be aware of these changes. R.C. 5703 (E).

Roger W. Tracy  
Tax Commissioner