
Opinion of the Tax Commissioner

Date Issued: September 24, 1993

Opinion No: 93-0012

Tax: Sales

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Subject: Affiliated Group

This request for an Opinion of the Tax Commissioner was received on July 13, 1993. It involves the application of Ohio sales tax to employment services.

QUESTION FOR WHICH OPINION IS REQUESTED

Whether two corporations, both one hundred percent owned by an individual, constitute an "affiliated group" within the meaning of R.C. 5739.01(B)(3)(e) and whether the transactions between the two corporations constitute employment services that are subject to sales tax.

FACTUAL BACKGROUND

(1) A, a Subchapter S corporation, is a manufacturer of health and beauty Aid products for the private label industry. The company employs about XXXX employees and offers a number of services to more than XXXX customers worldwide.

(2) B, a Subchapter S corporation, provides seasonal labor services to A. The company was established in 1990 and currently employs about XXXX employees.

(3) C and his spouse own 100% of both A and B. Mr. C is also president of both corporations.

OPINION

Ohio Revised Code 5739.01(B)(3)(k) includes employment service in the definition of a sale. R.C. 5739.01(JJ)(4) excludes transactions between members of an affiliated group from the definition of employment services. In the present situation, since C and his spouse own 100% of both A and B, they are treated as an affiliated group within the meaning of R.C. 5739.01(B)(3)(e). The transactions between these two corporations are not considered to be employment services and therefore are not subject to sales tax.

The tax consequences stated in this opinion may be subject to change for any of the reasons stated in R.C. 5703.53(C). It is the duty of the taxpayer to be aware of such changes.

Roger W. Tracy
Tax Commissioner