
Opinion of the Tax Commissioner

Date Issued: August 26, 1993

Opinion No: 93-0013

Tax: Sales

XXXX
XXXX
XXXX

Subject: Employment Placement

This request for an Opinion of the Tax Commissioner was received on July 26, 1993. It involves the application of the Ohio sales tax to an Employment Placement Service. XXXX (taxpayer) has submitted the following fact situation:

- (1) The taxpayer is an employment placement service who is paid by its client, an out-of-state employer.
- (2) The client is hiring an employee through the taxpayer.
- (3) The employee will reside in Ohio but will be doing work for the employer in six states, including Ohio. It is not clear what percentage of the employee's time will be spent in each state.

QUESTIONS FOR WHICH OPINION IS REQUESTED

- (1) Is Ohio sales tax due on the taxpayer's service to the employer, and
- (2) How does the multi-state nature of the employee's position effect the calculation of the tax?

OPINION

- (1) Ohio sales tax is due on this transaction. The employee's post of duty is deemed to be his residence in Ohio. Therefore, the employer is receiving the benefit of the employment placement service in Ohio.
- (2) The tax should be calculated on the entire fee paid by the employer. The fact that the employee may perform work for the employer in other states does not change the fact that the sale is deemed to occur in Ohio. The employee's post of duty is his residence so this is properly considered an Ohio placement.

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