

majority of said forms to independent entities which serve as support agencies to the hospital.

As stated in your inquiry, the hospital corporation purchases standardized forms without paying sales tax on the basis that it will resell some 70 percent of the forms to separately organized entities, each of which is engaged in rendering a health care service. The transfer price charged by the hospital is its cost plus applicable sales tax. Your position is that in the hands of the hospital corporation the forms should not be regarded as a business inventory item in that the transfer is made at cost rather than with the intent of making a profit as is the normal situation with those in the business of selling property. You also feel that the property is not offered for sale in the normal sense because of the fact that the transfers are made only to closely related entities.

It is our opinion that the inventory exemption should apply to that portion of the office forms held by the hospital corporation on the lien date which is intended to be transferred to other organizations. Thirty percent of these forms or any amount established to be held for self-consumption would not be eligible for exemption. Since a sale is defined for sales tax purposes as a transfer for consideration, we cannot logically conclude that the described transfers are other than sales. Further, we do not feel that the lack of a profit motive makes the transfers other than sales, nor do we feel that transfers to closely related, but separate, corporate or other business entities prevents the items held for transfer from being regarded as inventory. The hospital purchases the forms ex-tax for resale and in fact pays sales tax

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on the subsequent transfers. Following transfer, the forms in the hands of the purchasers would, of course, constitute office supplies rather than inventory. However, while the property is in the hands of the hospital, it does constitute an item of property which they intend to sell, which they inform the prospective purchasers are available for sale and which are in fact subsequently sold.

For sales tax purposes this board has always adhered to the theory that separate entities will be recognized unless to do so would result in a manifest injustice or fraud. Here we find a legitimate business purpose in the manner in which these organizations are operating. The purchase of the forms by one of the related entities undoubtedly results in volume discounts at the time of purchase and, of course, provides for a control of the forms. We do not feel that the relationship between the buyer and the seller, nor the fact that the seller has a limited number of customers, provides sufficient grounds for concluding that the exemption should be disallowed.


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