

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING # 16-05**

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This ruling is based on the particular facts and circumstances presented, and is an interpretation of the law at a specific point in time. The law may have changed since this ruling was issued, possibly rendering it obsolete. The presentation of this ruling in a redacted form is provided solely for informational purposes, and is not intended as a statement of Departmental policy. Taxpayers should consult with a tax professional before relying on any aspect of this ruling.

SUBJECT

The application of the Tennessee sales and use tax exemption under TENN. CODE ANN. § 67-6-329(a)(3) (Supp. 2015) for textbooks.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department, and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

[TAXPAYER] (the "Taxpayer") is a [REDACTED – ENTITY] created in [REDACTED] to promote education about [REDACTED – EDUCATIONAL TOPICS] among [REDACTED] school children.

To achieve its [REDACTED] objectives, the Taxpayer, among other things, produces and sells [REDACTED] ("booklets") covering various [REDACTED– EDUCATIONAL] topics. Each booklet is

intended for students of a specific level of education ranging from [REDACTED] and contains reading passages, photographs or pictures, and questions. All of the booklets are intended to help teachers comply with the [REDACTED – STANDARDS] required to be taught by [REDACTED]. The booklets may be categorized as either a “[TYPE 1] booklet,” “[TYPE 2] booklet,” or “[TYPE 3] booklet.”

The [TYPE 1] booklets are created and written to amplify and explain topics that are required to be taught under [REDACTED– EDUCATIONAL STANDARDS]. Each booklet contains short, educational passages followed by [REDACTED] questions related to the preceding passage. Each passage and related set of questions constitutes a separate chapter, and each chapter corresponds with an overarching educational topic or theme that corresponds with the [REDACTED– EDUCATIONAL] standards. The [TYPE 1] booklets contain [REDACTED].

The [TYPE 3] booklets are intended to be used to supplement [REDACTED]. Similar to the [TYPE 1] booklets, the [TYPE 3] booklets contain short, educational passages followed by [REDACTED] questions and include [REDACTED]. The [TYPE 3] booklets are primarily meant to help teachers meet [REDACTED – EDUCATIONAL GOAL]. Each topic covered by the [TYPE 3] booklets is directly related to [REDACTED].

The [TYPE 2] booklets contain excerpts from various [REDACTED] sources, such as [REDACTED]. The Taxpayer selected the excerpted sources based on the primary sources required to be covered in [REDACTED – EDUCATIONAL STANDARDS]. To help the intended audience understand the passage, the Taxpayer [REDACTED]. Excerpts are usually followed by a series of [REDACTED – QUESTIONS]. Questions may require research from sources other than the excerpted passages contained in the booklet.

Though available for purchase by anyone, the Taxpayer markets the booklets for use in [REDACTED - EDUCATION] settings, and almost all of its sales are to [REDACTED – SCHOOLS], teachers, and homeschooling parents. The Taxpayer charges [REDACTED – AMOUNT] per booklet and [REDACTED].

RULING

Are the Taxpayer’s sales of the booklets exempt from the Tennessee sales and use tax pursuant to TENN. CODE ANN. § 67-6-329(a)(3) (Supp. 2015)?

Ruling: Yes. The booklets meet the definition of “textbook” under TENN. CODE ANN. § 67-6-102(91) (Supp. 2015), since they contain organized educational information, cover a course of study, and are primarily marketed and sold to school systems and teachers, not the general public.¹

ANALYSIS

Under the Retailers’ Sales Tax Act, TENN. CODE ANN. § 67-6-101 *et seq.*, the sale of tangible personal property is generally subject to the Tennessee sales and use tax. However, TENN. CODE ANN. § 67-6-

¹ The titles of the booklets to which this Letter Ruling applies are: [REDACTED]; and any booklets sold by the Taxpayer that are substantially similar in format to the ones reviewed.

329(a)(3) (Supp. 2015) exempts from the Tennessee sales and use tax sales of “textbooks and workbooks.” The terms “textbook” and “workbook” are defined as follows:

(91) “Textbook” means a printed book that contains systematically organized educational information that covers the primary objectives of a course of study. A textbook may contain stories and excerpts of popular fiction and nonfiction writings, but does not include a book primarily published and distributed for sale to the general public. The term “textbook” does not include a computer or computer software.

....

(98) “Workbook” means a printed booklet that contains problems and exercises in which a student may directly write answers or responses to the problems and exercises. The term “workbook” does not include a computer or computer software.²

The Taxpayer’s booklets meet the definition of “textbook.” Each booklet contains “systematically organized educational information” that purposefully corresponds to [REDACTED – EDUCATIONAL STANDARDS]. Every chapter teaches students about a specific [EDUCATIONAL] topic, and the chapters are generally followed by [REDACTED] questions to reinforce the student’s comprehension, further establishing the educational nature of the booklets. Furthermore, the booklets, both in each booklet’s individual capacity, and as a series, cover the “primary objectives of a course of study.” An individual booklet is a stand-alone lesson plan that teaches the reader about an [EDUCATIONAL] topic. For example, the [REDACTED– TYPE 1] booklet introduces students to [REDACTED] by teaching the reader about the [REDACTED– EDUCATIONAL TOPICS]; and the [REDACTED– TYPE 2] booklet teaches about [REDACTED] through the use of excerpts from primary source materials. Additionally, the series of booklets as a whole covers a course of study aimed at teaching students about [REDACTED – EDUCATIONAL TOPICS].

Finally, the Taxpayer’s primary customers are school systems and teachers, and are not “primarily published and distributed for sale to the general public.” Instead, the Taxpayer publishes and markets the booklets to be used in conjunction with the [REDACTED – EDUCATIONAL STANDARDS]. Accordingly, the Taxpayer’s sales of booklets are exempt from the Tennessee sales and use tax.

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APPROVED: Richard H. Roberts
Commissioner of Revenue

DATE: June 9, 2016

² TENN. CODE ANN. § 67-6-102 (Supp. 2015).