



## Private Letter Rulings

*“Private letter rulings” are written statements issued to a taxpayer by the department, that interpret Wisconsin tax laws based on the taxpayer’s specific set of facts. Any taxpayer may rely upon the ruling to the extent the facts are the same as those in the ruling.*

*The ruling number is interpreted as follows: The “W” is for “Wisconsin”; the first four digits are the year and week the ruling becomes available for publication (80 days after it is issued to the taxpayer); the last three digits are the number in the series of rulings issued that year. The date is the date the ruling was issued.*

*Certain information that could identify the taxpayer has been deleted. Additional information is available in Wisconsin Publication 111, “How to Get a Private Letter Ruling From the Wisconsin Department of Revenue.”*

The following private letter ruling is included:

### Sales and Use Taxes

Sales of yearbooks through a third-party sales agency  
W 0907003 (p. 15)

### \* W 0907003 \*

**November 25, 2008**

**Type Tax:** Sales and Use Taxes

**Issue:** Sales of yearbooks through a third-party sales agency

**Statutes:** Section 77.54(4), Wis. Stats. (2005-06)

This letter responds to a request for a private letter ruling dated July 22, 2008.

### Facts, as provided:

- Company A manufactures school yearbooks.
- The school purchasing the yearbooks from Company A is responsible for the content of the yearbooks.
- The school purchasing the yearbooks is responsible for the sale and delivery of the yearbook to the student or other purchaser.
- In addition to taking orders for the yearbooks itself, a school can also contract with Company A for any one or all of the optional programs that Company A offers to assist the school in marketing and taking orders of the yearbooks.
- The optional programs are (1) school order day; (2) a home order mailing; and (3) a website and call center for taking orders.
- Under the “school order day” program, students fill out the order forms at school and then up to 3 invoices will be mailed to the student’s home for payment.
- Under the “home order mailing” program, the school selling the yearbooks provides a list of all of the student’s names and addresses and order forms are sent directly to the student’s homes.
- Under the “school support” program, orders are allowed to be placed online and via the telephone.
- If a school enters into a contract with Company A for one of the optional programs described above, Company A hires a third party to fulfill its responsibilities under the contract related to the optional program(s) that Company A entered into with the school.
- All yearbooks ordered through these optional programs are delivered to the school for distribution, in the same manner as yearbooks that were not ordered through these optional programs.
- The selling price of the yearbooks offered through these optional programs is set by the school.
- Payments for the yearbooks ordered through any of these optional programs are collected by either Company A or another third party and offer various payment alternatives (i.e., pay by credit card, check, or make installment payments).

- All of the amounts collected by Company A or another third party under the optional programs are fully credited to the school's account on a daily basis and are treated as payments made by the school to Company A for its purchases of yearbooks from Company A. (Note: With respect to these payments, if a check is returned for insufficient funds, the school is still responsible for paying for that yearbook and for collecting the payment from the customer in the event Company A or the third party hired by Company A cannot obtain the payment.)
- If the total amount collected by Company A or the third parties hired by Company A exceeds the school's total cost of all of the yearbooks it is purchasing, the excess amount is refunded to the school.
- Company A invoices the school for all of the yearbooks sold to them, including the yearbooks in which orders were placed through one of the optional programs offered by Company A or a third party hired by Company A.
- If a school has chosen to participate in one or more of the optional programs offered by Company A, an additional per-unit charge is added to the amount charged to the school for yearbooks ordered through these programs for Company A's handling of these orders. An additional per-unit charge is not added for those yearbooks where the orders and payments were handled solely by the school.

**Request:**

You are asking if the orders that are received by Company A or a third party hired by Company A, under the facts described above, are subject to Wisconsin sales or use tax.

**Ruling:**

The yearbook orders that are taken by Company A or a third party hired by Company A under the facts above are not subject to Wisconsin sales or use tax, provided the school on whose behalf the orders are taken is an elementary or secondary school that is exempt as such from payment of income or franchise tax under ch. 71, Wis. Stats.

Company A or the third party hired by Company A is just taking orders and collecting the amounts due on behalf of the school, based on the prices set by the school. The school is the retailer of these yearbooks and under sec. 77.54(4), Wis. Stats. (2005-06), an exemption is provided from Wisconsin sales and use tax for the "Gross receipts from the sale of tangible personal property, and the storage, use or other consumption in this state of tangible personal property which is the subject of any such sale, by any elementary school or secondary school, exempted as such from payment of income or franchise tax under ch. 71, whether public or private."

(Note: If the school or entity selling the yearbooks is someone other than an elementary or secondary school that is exempt from payment of income or franchise tax under ch. 71, Wis. Stats., sales by those schools may be subject to Wisconsin sales or use tax depending on the specific facts and circumstances.)