

March 4, 2020

Thomas J. Gohsler, J.D.
Chief Counsel
Pennsylvania Department of Revenue
PO BOX 280905
Harrisburg, PA 17128-0905

RE: January 31, 2020 Pennsylvania Sales and Use Tax Letter Ruling No. SUT-20-001

Dear Mr. Goshler:

On behalf of the American Society of Association Executives (ASAE), which represents more than 47,000 association professionals – including 1,500 in Pennsylvania – I write in regard to the Department of Revenue’s January 31, 2020 Letter Ruling No. SUT-20-001 (“Letter Ruling”) and the Commonwealth’s taxation of membership fees. As a national membership organization with both individual and organizational members in the state, we are concerned this letter ruling will harm our constituents and their ability to provide services in the public interest. Through this communication, we hope to clarify the breadth of the tax on membership fees in order to inform our state members of their obligations pursuant to this ruling.

Following are critical questions on behalf of our membership:

1. Membership dues/fees of nonprofit organizations do not qualify as Unrelated Business Taxable Income (“UBTI”) under federal law. What is the rationale for Pennsylvania to adopt a different approach?
2. Will Pennsylvania tax “tangible property” that does not meet UBTI standards?
3. Under the approach in the Letter Ruling, would national organizations be required to collect sales tax on “tangible property” provided to members who reside in Pennsylvania?
4. Are fees charged by nonprofit organizations for professional certifications taxable under the Letter Ruling? Does it matter whether the nonprofit organization has members or is a non-member organization?
5. Under the Letter Ruling, would educational materials that assist members to obtain or maintain a professional certification be considered “tangible property?”
6. What is the policy basis or legal precedent to treat the entirety of a membership fee as taxable versus non-taxable based on whether a member receives a single piece of tangible property? If membership itself is not taxable, what is the legal basis for taxing membership based on the member’s receipt of taxable “tangible property”?
7. The Letter Ruling refers to “globally recognized certifications.” How is this term defined?

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Thank you for your attention to this critical matter and we are grateful for the opportunity to seek additional information. If you have questions regarding ASAE, its membership or this communication, please contact Mary Kate Cunningham, CAE, vice president of public policy, at mcunningham@asaecenter.org or 202-626-2787.

Sincerely,

A handwritten signature in cursive script that reads "Susan Robertson". The signature is written in black ink and is positioned above the typed name.

Susan Robertson, CAE
Interim President and CEO