

**FINAL PRIVATE LETTER RULING**

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**REQUEST LETTER**

16-003

June 21, 2016

**VIA CERTIFIED MAIL**

**Strictly Confidential**

Office of the Commission  
Utah State Tax Commission  
210 N 1950 West  
Salt Lake City, UT 84134

**RE: Private Letter Ruling Request for Sales and Use tax collection responsibilities in Utah**

To Whom It May Concern:

We are requesting a private letter ruling from the Department of Revenue on whether our client (“**Company**”) is required to collect and remit sale or use tax from consumers that purchase products via Company’s website (“**Consumer**”).

**DESCRIPTION OF BUSINESS ACTIVITIES**

The Company is engaged in the business of developing and operating a website (“**Marketplace**”) that enables various unrelated businesses (“**Vendor**”) to offer products for sale to Consumers. All products are tangible personal property. The Company maintains a business location in Utah and some of the Vendors and Consumers are located in the state.

In a typical transaction, a Consumer visits the Marketplace for product that he or she desires to purchase. The Vendor is identified on the Marketplace when a Consumer selects an item for purchase. All prices are set by the Vendor, however; Company does have the right to adjust the purchase price by a nominal amount if they believe that it will help Vendor sell more items.

Once the Consumer places his or her order, Company is responsible for processing the order, providing the Vendor with the purchase order information, and processing the payment from the Consumer. Company charges a fee for providing these services. The fee is equal to 25 percent of the product’s purchase price (“**Processing Charge**”). As a result, the Company remits 75 percent of the purchase price collected from the Consumer to the Vendor. In addition to the net sales

proceeds (total purchase price less Processing Charge), Company remits to the Vendor 100 percent of any funds received from the consumer for shipping and handling.<sup>1</sup>

The Vendor is responsible for developing, designing, and manufacturing the products listed on the Marketplace. Vendor is also responsible for shipping their products to the Consumer. The Vendor ships its products to the Consumer via a third party carrier. Company does not maintain any inventory and never takes title to the goods sold.

If the Consumer wishes to return items purchased on the Marketplace, Consumer will ship back the returned item directly to Vendor. Company will then process a refund to the Consumer for 100% of the purchase price, including the Processing Charge. The Company charges the Vendor for any refunds paid to the Consumer and records the amount paid to the Consumer as a receivable from the Vendor. The Company will collect these funds back once the Vendor has another transaction through Company's website. If no further transactions are conducted, Company will invoice the Vendor for the amounts owed.

#### **RULINGS REQUESTED:**

We respectfully request an advisory opinion as to whether the Company is required to collect and remit Utah's sale or use tax on the products that are sold on the Marketplace or its services.

#### **STATEMENT OF TAXPAYER'S VIEW**

The Company provides an online marketplace for Consumers to shop for tangible personal property produced by various Vendors. The Company is paid a fee to process orders and payments for various Consumers and Vendors, respectively. As a result, the Company should not be deemed a *retailer* with regard to the products sold on the Marketplace. Further, the services provided by the Company are not an enumerated service subject to Utah's sale or use tax. Consequently, it is not required to collect and remit sale or use tax from the Consumers or its Vendors.

#### **LAW AND ANALYSIS**

Utah law provides that the retail sale of tangible personal property in this state is subject to tax.<sup>2</sup> "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction for consideration.<sup>3</sup> A ("**Retailer**") means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction and who is selling to the user or consumer. Thus, Retailers are required to collect and remit Utah's sale or use tax on any sales of tangible personal property or taxable services provided to persons in the state, except sales-for-resale.

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<sup>1</sup> Generally, the Vendor bears the cost of shipping their products to the Consumers. Consequently, the Company infrequently collects a separate shipping and handling charge from the Consumer.

<sup>2</sup> Utah Code Ann. §59-12-103(1)(a).

<sup>3</sup> Utah Code Ann. §59-12-107(1)(a)

Although a Consumer can purchase tangible personal property on the Marketplace, the Company does not sell the products. The products sold on the Marketplace are not designed or manufactured by the Company. Company does not purchase any products for resale from the Vendors, and it does not hold any inventory. Further, the products are shipped by the Vendors to the Consumers via a common carrier. As a result, Company should not be deemed a Retailer. Rather, Company provides payment processing, order acceptance and refund services for the Vendors. As a result, Company does not meet Utah's definition of a Retailer. Accordingly, the Company has no obligation to collect and remit Utah's sales tax from the Consumers that make purchases on the Marketplace or on its services.

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In the event that this letter does not, in your view, provide sufficient information to support our conclusions, we request a phone conference to more fully state our position with respect to the foregoing. If the Department disagrees with any part or all of the conclusions reached in this letter, we respectfully request the Department contact us prior to the issuance of a letter in response to this request.

Thank you for your prompt consideration of this matter. SENTENCE REMOVED

Very truly yours,  
TAX FIRM

NAME-1

Director, State and Local Tax Practice

**RESPONSE LETTER**  
**PRIVATE LETTER RULING 16-003**

March 31, 2017

NAME-1  
Director, State and Local Tax Practice  
WEB ADDRESS  
TAX FIRM  
ADDRESS  
CITY, STATE, ZIPCODE

Dear NAME-1:

This letter is in response to your request for a private letter ruling for an unnamed company (“Company”), which operates an internet marketplace website (“Marketplace”), through which products are sold to consumers (“Consumers”). You asked about the sales tax treatment of the sales of products made through the Marketplace and the Company’s sales of its services to the vendors offering products on the Marketplace (“Vendors”). Through your request letter, you provided us with the following facts.

I. Facts

In your request letter, you explained the following:

The Company is engaged in the business of developing and operating a website (“**Marketplace**”) that enables various unrelated businesses (“**Vendor**”) to offer products for sale to Consumers. All products are tangible personal property. The Company maintains a business location in Utah and some of the Vendors and Consumers are located in the state.

In a typical transaction, a Consumer visits the Marketplace for product that he or she desires to purchase. The Vendor is identified on the Marketplace when a Consumer selects an item for purchase. All prices are set by the Vendor, however; Company does have the right to adjust the purchase price by a nominal amount if they believe that it will help Vendor sell more items.

You provided a copy of an agreement between a Vendor and the Company. Under that agreement, the Company has the right to lower the purchase price by \$.01 to make the purchase

price more attractive to Consumers. You continued to explain in your request letter the following:

Once the Consumer places his or her order, Company is responsible for processing the order, providing the Vendor with the purchase order information, and processing the payment from the Consumer. Company charges a fee for providing these services. The fee is equal to 25 percent of the product's purchase price ("**Processing Charge**"). As a result, the Company remits 75 percent of the purchase price collected from the Consumer to the Vendor. In addition to the net sales proceeds (total purchase price less Processing Charge), Company remits to the Vendor 100 percent of any funds received from the consumer for shipping and handling.<sup>1</sup>

In your footnote 1, you explain, "Generally, the Vendor bears the cost of shipping their products to the Consumers. Consequently, the Company infrequently collects a separate shipping and handling charge from the Consumer." In your request letter you further explain the following:

The Vendor is responsible for developing, designing, and manufacturing the products listed on the Marketplace. Vendor is also responsible for shipping their products to the Consumer. The Vendor ships its products to the Consumer via a third party carrier. Company does not maintain any inventory and never takes title to the goods sold.

If the Consumer wishes to return items purchased on the Marketplace, Consumer will ship back the returned item directly to Vendor. Company will then process a refund to the Consumer for 100% of the purchase price, including the Processing Charge. The Company charges the Vendor for any refunds paid to the Consumer and records the amount paid to the Consumer as a receivable from the Vendor. The Company will collect these funds back once the Vendor has another transaction through Company's website. If no further transactions are conducted, Company will invoice the Vendor for the amounts owed.

The agreement between a Vendor and the Company explains more requirements the Company imposes on a Vendor using the Marketplace. The agreement provides the following, stated in part:

A Deal is . . . a single retail product of [the Vendor] . . . being displayed by [the Company] on the [Marketplace website] for a period not to exceed 72 hours . . .

. . . .

- [The Vendor] agrees that all inventory required to . . . deliver an Item sold to a [Consumer] . . . will be on-hand and immediately available in [Vendor's] inventory prior to the start of a Deal.
- A sample of the item must be delivered to [the Company] for approval prior to the Deal going live on the [Marketplace website]. . . .
- [The Company] require[s] all deals to be submitted with a minimum of 100 units and 50 for handmade goods.

- [The Vendor] must remove any packaging provided by [the Vendor's] vendor, and place Item in [the Vendor's] branded packaging.
- All product must be shipped within 7 days of Deal end date, and within 14 days of the Deal end date for any items that are hand-made or personalized.
- All orders MUST be sent with tracking information which is required to be uploaded into the [Company's] system before payment is released.
- ....
- [The Company] will transfer to [the Vendor] the funds received from purchasers during a Deal, less the Service Fee, AFTER the product has shipped and [the Company has] confirmed it is in transit.
- ....
- [The Vendor] shall respond to all communications from [Consumers] via email within 1-2 business days following a [Consumer's] inquiry or complaint in order to ensure a timely response and a satisfied [Consumer].
- ....
- [The Vendor] agrees to abide by [the Company's] cancellation and refund policies . . . [The Vendor's] individual refund policies do not apply to Deals on the [Marketplace website.]
- [Consumers] are allowed to cancel orders for any Items so long as the Item has not yet been shipped . . .
- If for any reason a [Consumer] is unhappy with an Item purchase, they can contact [the Company's] customer support or the [Vendor] within 14 days of receipt to arrange a replacement or refund.
- If a purchaser requires a refund within 14 days of delivery for an Item received damaged, broken, or flawed, [the Company] will issue the [Consumer] a refund of the Deal Price and the Shipping Price. [The Vendor] agrees to pay and reimburse [the Company] the amount of any refund provided . . .
- ....
- Any refunds paid by [the Company] to a [Consumer] due to non-delivery of Items by [the Vendor] will result in a service charge payable by [the Vendor] in the amount of 10% of the Item Deal Price . . .
- ....

II. Applicable Law

Utah Code Ann. § 59-12-103(1) imposes tax “on the purchaser” for certain transactions including “for amounts paid or charged for . . . (a) retail sales of tangible personal property made within the state.”

Utah Code Ann. § 59-12-107(2)(a) imposes collection and remittance requirements on a “seller,” with this code section stating in relevant part:

Except as provided in Subsection (2)(e), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(f), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

- (i) has or utilizes:
  - (A) an office;
  - (B) a distribution house;
  - (C) a sales house;
  - (D) a warehouse;
  - (E) a service enterprise; or
  - (F) a place of business similar to Subsections (2)(a)(i)(A) through (E) . . .

. . . .

Utah Code Ann. § 59-12-102(110) and (116), define “sale” and “seller,” respectively, as follows:

(110)(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

- (b) "Sale" includes:
  - (i) installment and credit sales;
  - (ii) any closed transaction constituting a sale;
  - (iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
  - (iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
  - (v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

. . . .

(116) "Seller" means a person that makes a sale, lease, or rental of:

- (a) tangible personal property;
- (b) a product transferred electronically; or
- (c) a service.

Utah Code Ann. § 59-12-102(109) defines “retailer” as follows:

- (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.
- (b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

### III. Analysis

This section analyzes the following issues: (A) whether the Company is required to collect and remit Utah sales or use taxes from Consumers that purchase products through the Marketplace and (B) whether the Company is required to collect and remit sales or use taxes on its sales of the services to the unrelated Vendors who offer products for sale to Consumers through the Marketplace.

#### **A. The Company Is Not Required to Collect and Remit Utah Sales or Use Taxes from Consumers that Purchase Products Through the Marketplace.**

As analyzed below, (i) the Utah Code imposes collection and remittance requirements on a “seller,” (ii) the Company is not a “seller” of the products through the Marketplace, (iii) the Company is also not a “retailer” of the products sold through the Marketplace, and (iv) this ruling does not address the Vendors’ collection and remittance requirements.

##### *i. Utah Code Imposes Collection and Remittance Requirements on a “Seller.”*

Under § 59-12-103(1), Utah sales taxes are imposed “on the purchaser” for “retail sales of tangible personal property made within [Utah].” For the Company’s situation, some consumers are located in Utah. Thus, some sales of products through the Marketplace would be subject to Utah sales and use taxes.

Under § 59-12-107(2)(a), “each seller shall pay or collect and remit the sales and use taxes imposed . . . if within this state the seller . . . has or utilizes . . . an office; . . . distribution house; . . . sales house; . . . warehouse; . . . a service enterprise; or . . . a place of business similar to [the other places listed] . . .” The Company has a business location in Utah. Thus, if the Company is a “seller,” the Company must “pay or collect and remit the sales and use taxes imposed.”

##### *ii. The Company Is Not the “Seller” of the Products Because the Company Does Not Make the “Sale” of Those Products Through the Marketplace.*

Section 59-12-102(116) defines “seller” as follows: “‘Seller’ means a person that makes a sale, lease, or rental of: (a) tangible personal property; (b) a product transferred electronically; or (c) a service.” The Company sells services to the Vendors; thus, the Company is a seller. The

question for this private letter ruling, though, is whether the Company is the seller for a different transaction, namely, the sales of the products through the Marketplace.<sup>1</sup>

“Sale” is defined in § 59-12-102(110). For this private letter ruling, the products sold are tangible personal property that the Vendors ship to the Consumers via third party carriers. For this situation, the subsection of the definition of “sale” that best applies is Subsection (110)(a) of § 59-12-102, which states the following:

"Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

The Company will be found to make the sale of the products to the Consumers through the Marketplace if the Company makes a transfer of title, an exchange, or a barter of the products for consideration. The analyses for transfer of title, exchange, and barter are below.

For transfer of title, the Company never has title to the products sold through the Marketplace based on the facts you provided. These facts are as follows:

The Vendor is responsible for developing, designing, and manufacturing the products listed on the Marketplace. Vendor is also responsible for shipping their products to the Consumer. The Vendor ships its products to the Consumer via a third party carrier. Company does not maintain any inventory and never takes title to the goods sold.

If the Consumer wishes to return items purchased on the Marketplace, Consumer will ship back the returned item directly to Vendor. . . .

For the transfer of title, the Vendor is the person in possession of the products before the sales and is the person who ships the products sold to the Consumers. Thus, based on the transfer of title, the Vendor would be the seller.

For “exchange,” *Black’s Law Dictionary* defines “exchange” as “[t]he act of transferring interests, each in consideration for the other.” *Black’s Law Dictionary*, 645 (9<sup>th</sup> ed. 2009). In the sale of a Vendor’s product through the Marketplace, the Consumer transfers money through the Company to the Vendor in exchange for the Vendor’s product. Similarly, the Vendor transfers its product to the Consumer in exchange for the Consumer’s money, which is received through the Company. The Company, unlike the Vendor, never transfers the Vendor’s product or an interest in the Vendor’s product. Instead, the Company only receives the Consumer’s money on behalf of the Vendor. The Company earns its revenue not from the Consumer, but from the Vendor, for the services the Company provides the Vendor. Thus, the Company does not transfer an interest in the Vendor’s product to the Consumer in exchange for the Consumer’s

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<sup>1</sup> This private letter ruling addresses only the two types of transactions you presented, which are (1) the sales of the products through the Marketplace and (2) the Company’s sales of its services to the Vendors. The taxability of other transactions in which the Company might engage is not addressed in this private letter ruling.

money. Therefore, based on the exchange presented, the seller of the Vendor's products would be the Vendor and not the Company.

For "barter," *Black's Law Dictionary* defines "barter" as "[t]he exchange of one commodity for another without the use of money." *Black's Law Dictionary*, 171 (9<sup>th</sup> ed. 2009). All sales made through the Marketplace involve the use of money. Therefore, "barter" does not apply to the situation presented.

Based on the above analysis, the Company is not the "seller" of the products because the Company does not make the "sale" of the products. The Company does not make the transfer of title, the exchange, or a barter of the products. Because the Company is not the seller of the products, the Company does not have a collection and remittance requirement under § 59-12-107(2)(a) for those sales.

*iii. The Company Is Not a "Retailer" of the Products Sold Through the Marketplace.*

Analysis of the term "retailer" does not change the conclusion that the Company is not the seller of the products sold through the Marketplace.

In your request letter, you discussed the term "retailer" and asserted that "the Company should not be deemed a retailer with regard to the products sold on the Marketplace." As discussed previously, § 59-12-107(2)(a) imposes a collection and remittance requirement on a "seller"; it does not impose the collection and remittance requirement on a "retailer." A "seller" is defined in § 59-12-102(116), and this definition of "seller" does not use the term "retailer." It is reasonable, though, to interpret "retailer" as being a type of a seller. Notably, § 59-12-103(1)(a) imposes tax on "**retail sales** of tangible personal property made within the state" (emphasis added).

As discussed below, "retailer" is defined in Subsections (109)(a) and (109)(b) of § 59-12-102. The Company does not meet either of these two subsections.

Under § 59-12-102(109)(a), a "[r]etailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), **and who is selling to the user or consumer** and not for resale" (emphasis added). The Company does not meet Subsection (109)(a) because it is not selling the products to the Consumers. This private letter ruling has previously analyzed why the Company does not make the "sale" of these products and is thus not a "seller" of these products.

Under § 59-12-102(109)(b), a "[r]etailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state." Below are the analyses for (a) commission merchant, (b) auctioneer, and (c) any person regularly engaged in the business of selling to users or consumers.

**a. The Company Is Not a Commission Merchant.**

*Black's Law Dictionary* defines "commission merchant" as the second definition of "factor." *Black's Law Dictionary*, 307 (9<sup>th</sup> ed. 2009). *Black's Law Dictionary* defines "factor" as follows in pertinent part:

**2.** An agent who is employed to sell property for the principal and who **possesses or controls the property**; a person who receives and sells goods for a commission <a factor was employed to sell goods for the company> • A factor differs from a broker because the factor **possesses or controls the property**. – Also termed *commission merchant* . . .

‘A factor by the rules of common law and of mercantile usage is an agent to whom goods are consigned for the purpose of sale, and he has **possession of the goods**, power to sell them in his own name, and a general discretion as to their sale. He may sell them on the usual terms of credit, may receive the price, and give a good discharge to the buyer.’ William R. Anson, *Principles of the Law of Contract* 523 (Arthur L. Corbin ed., 3d Am. ed. 1919).

....

*Black's Law Dictionary*, 671 (9<sup>th</sup> ed. 2009) (emphasis added.).

Notably, the commission merchant "possesses or controls the property" and "differs from a broker because the [commission merchant] possesses or controls the property." *Black's Law Dictionary* includes a definition of "broker," which can be compared with the definition of "commission merchant." *Black's Law Dictionary* defines "broker" as follows:

**1.** an agent who acts as an intermediary or negotiator, esp. between prospective buyers and sellers; a person employed to make bargains and contracts between other persons in matters of trade, commerce, or navigation. • A broker differs from a factor because the **broker usu. does not have possession of the property**. . . .

....

**commercial broker.** A broker who negotiates the sale of goods **without having possession or control of the goods**. Cf. FACTOR (2). . . .

....

**merchandise broker.** One who negotiates the sale of merchandise **without possessing it**. • A merchandise broker is an agent with very limited powers.

....

*Black's Law Dictionary*, 219-220 (9<sup>th</sup> ed. 2009) (emphasis added).

Based on the definitions of "broker" and "commission merchant," possession or control of the property is a key difference. Based on the facts presented, the Company does not possess or control the products sold through the Marketplace. Instead, the Vendors possess and control the

products and also arrange for the delivery of the products to the Consumers via third party carriers. Because the Company does not possess or control the products, the Company is not a commission merchant.

This conclusion focusing on lack of possession and control does not change even though the Company imposes on Vendors certain conditions and requirements. These requirements are as follows. The Vendor must have a minimum number of products on-hand and immediately available before the product is listed on the Marketplace website. The Vendor must send a sample of the product to the Company before the product is listed on the Marketplace website. The Vendor must package the product in the Vendor's branded packaging. The Vendor must ship the product within either seven or fourteen days of the Deal end date, depending on whether or not the product is handmade or personalized. The Company will withhold from a Vendor the funds the Company received from a Consumer until the Vendor has shipped the product. The Vendor must respond to all communications from a Consumer within two business days. The Vendor must follow the Company's cancellation and refund policies. An unhappy Consumer may contact either the Vendor or the Company's customer support. The Company does not receive returned products from Consumers, but the Company may issue refunds to Consumers. After considering these conditions and requirements, the Company still does not possess or control the products sold through the Marketplace; and thus, is not a commission merchant.

**b. The Company Is Not an Auctioneer.**

For auctioneer, *Black's Law Dictionary* defines "auction" and "auctioneer" as follows:

**auction** . . . A public sale of property to the highest bidder. . . .

. . . .

**auctioneer** . . . A person legally authorized to sell goods or lands of other persons at public auction for a commission or fee. • The auctioneer is the property owner's agent up to the moment when a purchaser's bid is accepted, when the auctioneer becomes the purchaser's agent. . . .

*Black's Law Dictionary*, 149 (9<sup>th</sup> ed. 2009).

The Company is not an auctioneer because it is not selling the Vendors' products to the highest bidder.

**c. The Company Is Not a "Person Regularly Engaged in the Business of Selling to Users or Consumers."**

The Company is not a "person regularly engaged in the business of selling to users or consumers" because the Company is not *selling* the products to the Consumers. This private letter ruling has previously analyzed why the Company is not a "seller" because it does not make the "sale" of the products.

Based on the above analyses for “retailer,” the Company is not a retailer of the products sold through the Marketplace. This conclusion is consistent with the previous conclusion that the Company is not a seller of the products sold through the Marketplace.

*iv. This Private Letter Ruling Does Not Address the Vendors’ Collection and Remittance Requirements.*

This ruling does not address the Vendors’ collection and remittance requirements. Based on the limited facts presented in your letter, though, Vendors who use the Marketplace might be liable to collect and remit Utah sales and use taxes on the full purchase price paid by Utah customers without regard to the Processing Charge, which is discussed in the subsection below. Due to the physical presence of the Marketplace in Utah, these Vendors might include both Vendors who maintain a business location in Utah and those who do not.

**B. The Company Is Not Required to Collect and Remit Sales or Use Taxes on Its Sales of Services to the Vendors Who Offer Products for Sale Through the Marketplace.**

The Company charges a Processing Charge to Vendors for the following services: “processing the order, providing the Vendor with the purchase order information, and processing the payment from the Consumer.” The Company also processes Consumers’ refunds. However, the Company does not receive any returned products from the Consumers. The Company’s services provided to Vendors are not subject to Utah sales taxes because the sales of such services are not among the transactions listed as taxable in § 59-12-103(1).

IV. Conclusion

The Company is not required to collect and remit Utah sales or use taxes from the sales of the products sold through the Marketplace. The Vendors, who are unrelated to the Company, are the sellers of those products.

The Company is not required to collect and remit sales or use taxes on the Company’s sales to the Vendors of the services described in this private letter ruling.

The Tax Commission’s conclusions are based on the facts as you described them and the Utah law currently in effect. Should the facts be different or if the law were to change, a different conclusion may be warranted. If you feel we have misunderstood the facts as you have presented them, you have additional facts that may be relevant, or you have any other questions, please feel free to contact the Commission.

Additionally, you may also appeal the private letter ruling in the following two ways.

First, you may file a petition for declaratory order, which would serve to challenge the Commission's interpretation of statutory language or authority under a statute. This petition

must be in written form, and submitted within thirty (30) days after the date of this private letter ruling. You may submit your petition by any of the means given below. **Failure to submit your petition within the 30-day time frame could forfeit your appeal rights and will be deemed a failure to exhaust your administrative remedies.** Declaratory orders are discussed in Utah Administrative Code R861-1A-34 C.2., available online at <http://tax.utah.gov/commission/effective/r861-01a-034.pdf>, and in Utah Administrative Code R861-1A-31, available online at <http://tax.utah.gov/commission/effective/r861-01a-031.pdf>.

Second, you may file a petition for redetermination of agency action if your private letter ruling leads to an audit assessment, a denial of a claim, or some other agency action at a division level. This petition must be written and may use form TC-738, available online at <http://tax.utah.gov/forms/current/tc-738.pdf>. Your petition must be submitted by any of the means given below, within thirty (30) days, generally, of the date of the notice of agency action that describes the agency action you are challenging.

You may access general information about Tax Commission Appeals online at <http://tax.utah.gov/commission-office/appeals>. You may file an appeal through any of the means provided below:

- **Best way**—by email: [taxappeals@utah.gov](mailto:taxappeals@utah.gov)
- By mail: Tax Appeals  
USTC  
210 North 1950 West  
Salt Lake City, UT 84134
- By fax: 801-297-3919

For the Commission,

Rebecca L. Rockwell  
Commissioner

RLR/aln  
16-003