

TAXABILITY OF SALES BY COURT REPORTERS

Issue:

Are retail sales of depositions, bills of exceptions, and transcripts or copies of depositions, bills of exceptions, and transcripts taxable when prepared and sold by court reporters?

Conclusion:

Beginning October 1, 2008, Neb. Rev. Stat. § 77-2704.58, pursuant to Laws 2008, LB 916 § 22, provides that sales and use tax shall not be imposed on the gross receipts from the sale, use, or other consumption in this state of depositions, bills of exceptions, and transcripts or copies of such depositions, bills of exceptions, and transcripts prepared and sold by a court reporter.

Definitions:

Court Reporter – A person who possesses the knowledge, skill, and ability to produce a verbatim record of court and other legal proceedings (for example: depositions, administrative hearings, and arbitrations). A “verbatim record” is one which accurately reflects the spoken word and nonverbal communication and action.

Deposition – A written declaration under oath or a videotape taken under oath in accordance with procedures provided by law, made upon notice to the adverse party for the purpose of enabling him or her to attend and cross-examine, or made upon written interrogatories. See Neb. Rev. Stat. § 25-1242.

Bill of Exceptions - A verbatim record of anything and everything said or done by anyone in the course of trial or any other legal proceeding, any objection to the court’s proposed instructions or to instructions tendered by any party, together with the court’s rulings thereon, and any posttrial proceeding; amendments to the bill of exceptions, together with the court’s rulings thereon; and the index of the bill of exceptions.

Transcript - A writing or record (original or copy) of judicial, legislative, administrative, or other legal proceedings, including, but not limited to: pleadings upon which the case was tried; the judgment, decree, or final order sought to be reversed, vacated, or modified; the lower court’s memorandum opinion, if any; and other parts of the record as are necessary and material to the assignments of error.

Analysis:

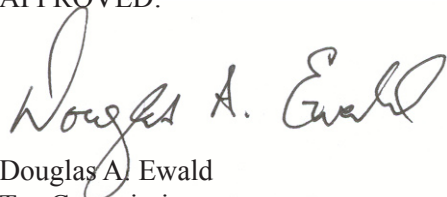
Sales of depositions, bills of exceptions, and transcripts or **copies** of depositions, bills of exceptions, and transcripts **prepared and sold** by a court reporter are exempt from sales tax. Sales of videotaped

depositions are exempt only if prepared and sold by a court reporter. If a person other than a court reporter prepares the videotape, then sales of the videotape to a court reporter or to any other party are taxable.

Sales of all tangible personal property other than depositions, bills of exceptions, and transcripts by court reporters remain taxable.

Any person, other than a court reporter, selling depositions, bills of exceptions, and transcripts or **copies** of depositions, bills of exceptions, and transcripts in any tangible format must collect sales tax on the gross receipts of these sales pursuant to Nebraska Sales and Use Tax Regulation 1-080.

APPROVED:

A handwritten signature in black ink that reads "Douglas A. Ewald". The signature is written in a cursive style with a large initial "D" and "E".

Douglas A. Ewald
Tax Commissioner

October 24, 2008