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July 2016

Dear Sir or Madam:

According to the Missouri Department of Revenue's records, you are registered with the Department as selling tangible personal property that may be delivered to Missouri customers. The purpose of this letter is to notify you of a Missouri Supreme Court decision concerning your obligation to remit tax on such delivery charges. If you are not currently collecting and remitting tax on your delivery charges, this decision may require you to begin doing so.

In *Alberici Constructors, Inc. v. Director of Revenue*, 452 S.W.3d 632 (Mo. banc 2015), the Missouri Supreme Court held charges for delivery of a rented crane are subject to use tax because the parties intended for delivery of the crane to be part of the crane rental. The Missouri Supreme Court relied upon a previous case, *Southern Red-E-Mix Co. v. Director of Revenue*, 894 S.W.2d 164 (Mo. banc 1995), that had identified a number of factors relevant to determining whether delivery is intended to be part of a sale. The factors include:

1. When title passes from the seller to the purchaser;
2. Whether the delivery charges are separately stated;
3. Who controls the cost and means of delivery;
4. Who assumes the risk of loss during delivery; and
5. Whether the seller derives financial benefit from delivery.

In general, if parties intend delivery to be part of the sale of tangible personal property, the delivery charge is subject to tax even when the delivery charge is separately stated.

If you require additional information, please email the Department at salesuse@dor.mo.gov.

Sincerely,

A handwritten signature in black ink that reads "Nia Ray".

Nia Ray