

Memorandum

To : Mr. Steve Guest
Return Review Section - MIC:35

Date: June 14, 1993

From : Ronald L. Dick
Senior Tax Counsel

Subject: ---

This is in reply to your April 13, 1993 memorandum regarding a deduction by --- on its sales and use tax return for a charge to a customer for photographic slides lost by the customer.

We understand that the taxpayer leases photographic slides to its customers. In the case at issue, the customer lost five photographic slides and the taxpayer charged the client \$1,500 for each slide lost by the customer.

Given this information, you asked whether the charge for the lost slides is includible in the gross receipts of the taxpayer as a sale of the slides. No, we do not believe the transaction resulted in a sale. Rather, we believe the transaction is analogous to the situation presented at subdivision (c)(1) of Sales and Use Tax Regulation 1660, Leases of Tangible Personal Property-In General, which provides that tax does not apply to certain charges by a lessor including which are charges for insuring, repairing, or refurbishing the leased property following a default.

RLD:sr