

From

Excise & Taxation Commissioner,
Haryana, Panchkula.

To

All the Dy. Excise & Taxation Commissioner (ST),
in the State of Haryana.Memo No. 1615 /ST-I,
Panchkula, dated the 31/07/2013**Subject: Circulation of Clarification-M/s Hewlett Packard India Sales Private Limited, Gurgaon.****MEMORANDUM**

A copy of clarification order issued by the Principal Secretary to Government of Haryana, Excise & Taxation Department under section 56(3) of Haryana Value Added Tax Act, 2003 sought by Hewlett Packard India Sales Private Limited, Building No. 2, DLF Cyber Green, First -Fourth Floor, Tower D & E, DLF Cyber City, Phase-III, Gurgaon-122022 holding TIN No. 06821824074 is sent herewith for information and necessary action by all the concerned.

Ram Raj 29-7-13
Superintendent (Sales Tax)
for Excise & Taxation Commissioner, Haryana.

Endst. No. 1616 /ST-I, Panchkula, dated the 31/07/2013

A copy alongwith a copy of clarification is forwarded to the following for information and necessary action:-

- Regd.
1. M/s Hewlett Packard India Sales Private Limited, Building No. 2, DLF Cyber Green, First -Fourth Floor, Tower D & E, DLF Cyber City, Phase-III, Gurgaon-122022.
 2. Jt. Excise & Taxation Commissioner (Divison/Range) Ambala, F/Bad, Gurgaon and Hisar.
 3. All Joint Excise & Taxation Commssioners (Appeals) in the State of Haryana.
 4. Senior Deputy Accountant General (Audit), Haryana, Chandigarh.
 5. Dy. Excise & Taxation Commissioner (Vigilance), Haryana Vigilance Bureau, Sector-6, Panchkula.

Ram Raj 29-7-13
Superintendent (Sales Tax)
for Excise & Taxation Commissioner, Haryana.

Endst. No. 1617 /ST-I, Panchkula, dated the 31/07/2013

A copy alongwith a copy of clarification is forwarded to the following in the Head Office for information and necessary action:-

1. All Addl. Excise and Taxation Commissioners
2. Jt. Excise and Taxation Commissioners
3. Jt. Director (L)-I and II
4. Dy. Excise and Taxation Commissioner
5. DA-I and II
6. DDA-I & II
7. Superintendent (C) for sending E-mail to all the DETCs(ST) and for uploading on website.
8. ST-II only (For adding in The Annual Sales Tax Circular, 2013).

Ram Raj 29-7-13
Superintendent (Sales Tax)

S.A
31-7-13

**ORDER OF CLARIFICATION ISSUED BY SHRI HARDEEP KUMAR, I.A.S.
PRINCIPAL SECRETARY TO GOVERNMENT OF HARYANA,
EXCISE & TAXATION DEPARTMENT**

This is an order issued under section 56(3) of the Haryana Value Added Tax Act, 2003 (here-in-after referred to as the Act) to a clarification sought by M/s. Hewlett Packard India Sales Private Limited, Gurgaon (TIN-06821824074) on the issue i.e. ***“whether online software products which the customers download directly and license key is sent by e-mail (in case of e-license) or courier (in case of paper license) sold by the applicant are to be taxed under the Haryana Value Added Tax Act, 2003 @ 13.13% or 5.25% ?”***

2. As per the statement of facts and interpretation of law by the applicant, IT softwares are sold on media like CD and DVD and online software products which the customers download directly and the license key is sent by email or courier to the customers. This sale of software is duly covered under entry contained at Serial Nos. 3 and 44 of Schedule C appended to the Act. The applicant has also relied on the similar entries contained in the Maharashtra, Andhra Pradesh, Delhi, Kerala, Madhya Pradesh and Karnataka states VAT Acts. Further, the clarification issued by the department in the case of M/s. Nestle R&D Centre India Pvt Ltd Gurgaon vide orders dated 30.10.2012 is also taken support of.

3. The issue has been examined. Entry contained at Serial No. 44 of Schedule C reads as ***“Telephone, cell phones,***

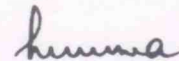
teleprinter, wireless equipments and parts thereof, digital video disc and compact disc, information technology products namely

<u>HSN Code</u>	<u>Description of Item</u>
------------------------	-----------------------------------

85.24	<i>IT software on any media"</i>
-------	----------------------------------

4. The above entry stipulates that Information Technology products i.e. IT software on any media is covered under this entry. The products for which the present clarification is sought are online software products downloaded directly by the customers and hence are IT software falling under the above entry No. 44 of Schedule C and hence liable to VAT @ 5% (plus additional tax) accordingly.

The matter stands clarified accordingly.



(HARDEEP KUMAR)

Principal Secretary to Government Haryana,
Excise and Taxation Department

Dated: 18.7.2013
Chandigarh