

**New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division**

TSB-A-04(29)S
Sales Tax
December 28, 2004

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S011214A

On December 14, 2001, the Department of Taxation and Finance received a Petition for Advisory Opinion from State Farm Mutual Automobile Insurance Co., One State Farm Plaza, Bloomington, IL 61710.

The issue raised by Petitioner, State Farm Mutual Automobile Insurance Co., is whether the charges for the service of retrieving copies of specific, individual police reports from local police authorities and providing such copies to an insurance company are subject to sales or compensating use tax.

Petitioner submits the following facts as the basis for this Advisory Opinion.

Petitioner is engaged in the automobile insurance business in New York State. Petitioner is the customer of two companies, both of whom provide the service of retrieving individual copies of police reports from local police authorities requested specifically by Petitioner's regional offices and providing such copies to the requesting regional office. The police reports are requested by Petitioner for use in claims processing in order to determine:

- the facts of the loss in a particular event;
- the damage to the vehicles in a particular event;
- the parties involved in the accident;
- any injuries sustained in a particular event;
- whether anyone was taken to the hospital;
- the names of hospitals used to treat any injuries sustained in a particular event;
- addresses of the parties involved for contact and underwriting reviews;
- identification of insurance companies involved in the claim;
- whether any parties involved have received citations, tickets, or were arrested;
- whether the police were at the scene or witnessed the accident; and,
- the timeliness of reporting the loss to the police.

Neither of the companies that provides copies of police reports to Petitioner obtains the reports from a purchased database or via a computer terminal hookup. Upon receipt of a request for copies of police reports from one of Petitioner's offices, the companies obtain copies of specific police reports individually. Reports may be obtained in person, or by mail, by completing a request form and submitting it to the appropriate police agency.

Applicable law and regulations

Section 1101(b) of the Tax Law provides, in part:

When used in this article for the purposes of the taxes imposed by subdivisions (a), (b), (c) and (d) of section eleven hundred five and by section eleven hundred ten, the following terms shall mean:

* * *

(3) Receipt. The amount of the sale price of any property and the charge for any service taxable under this article . . . valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts and also including any charges by the vendor to the purchaser for shipping or delivery . . . regardless of whether such charges are separately stated in the written contract, if any, or on the bill rendered to such purchaser and regardless of whether such shipping or delivery . . . is provided by such vendor or a third party

Section 1105 of the Tax Law provides, in part:

On and after June first, nineteen hundred seventy-one, there is hereby imposed and there shall be paid a tax . . . upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this article.

* * *

(c) The receipts from every sale, except for resale, of the following services:

(1) The furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons, and excluding the services of advertising or other agents, or other persons acting in a representative capacity, and information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news, and excluding meteorological services.

Opinion

In *Allstate Insurance Company v. State Tax Commission*, 115 AD2d 831 (1985), the court held that the furnishing of New York State Department of Motor Vehicle records by Hooper Holmes, Inc. to Allstate was the furnishing of an information service even if the information was collected from a single source. Additionally, the court held that the exclusion from tax for

information which is personal or individual in nature refers to uniquely personal information and does not apply to information filed with a governmental agency as a public record to which there is unlimited public access.

The furnishing of copies of records obtained by a company from a police agency's files is the furnishing of an information service and is not a delivery service even though the information is collected from a single source. See *Allstate Insurance Company, supra*. Such information is not the type of uniquely personal information referred to in the exemption for personal or individual information. Furthermore, in a multi-party accident, the different insurance companies each separately representing the various parties would each request and obtain the identical police reports for such incident. This service is not exempt merely because the information may have been generated from a governmental source. See *Matter of Hooper Holmes, Inc. v. Wetzler*, 152 AD2d 871, *lv denied* 75 NY2d 706.

Accordingly, the sale of this information service by a company to Petitioner is subject to sales tax under section 1105(c)(1) of the Tax Law.

Section 1101(b)(3) of the Tax Law defines *receipts* for purposes of determining the amount of taxable sales as, "The amount of the sale price of any property and the charge for any service taxable under this article...without any deduction for expenses...."

Accordingly, when a company is required to collect sales tax on its sales of information services to Petitioner, it must collect sales tax on the entire amount charged to Petitioner. It may not reduce its taxable receipts by the amount it paid as a fee to the police agency. Such fee is deemed an expense for which no deduction is allowed. Any separately stated charge for delivery of the document is likewise subject to sales tax. See section 1101(b)(3) of the Tax Law.

DATED: December 28, 2004

/s/
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NOTE: The opinions expressed in Advisory Opinions are limited to the facts set forth therein.