

New York State Department of Taxation and Finance
Office of Counsel
Advisory Opinion Unit

TSB-A-09(61)S
Sales Tax
October 15, 2009

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S081231A

On December 31, 2008, the Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED]. Petitioner asks whether its lighting design services are subject to sales tax (1) when Petitioner is hired by a licensed architect or engineer and Petitioner's work is wholly incorporated into the architect's or engineer's signed and sealed documents and (2) when a building owner hires Petitioner and the architect or engineer separately with Petitioner's work being fully incorporated into the signed and sealed documents of such licensed professionals. Petitioner's receipts for these services are subject to sales tax under Tax Law § 1105(c)(7).

Facts

Petitioner is a firm dedicated to the design, layout, and specification of architectural lighting systems. It acts as a subconsultant to architects and engineers under whose supervision Petitioner does the following:

1. prepares lighting fixture layouts on background drawings provided by the architect or engineer;
2. recommends lighting fixtures based on performance and safety standards as well as the aesthetic concept for lighting established in conjunction with the architect and the client;
3. performs technical lighting level calculations to ensure the lighting meets the state and local energy codes and the standards recommended by the American Society of Heating, Refrigerating and Air-Conditioning Engineers for energy consumption. Calculations are also run to demonstrate that the lighting to be provided meets the standards for "suitability to task" as established by the Illuminating Engineering Society of North America;
4. prepares technical specifications for the general illumination lighting systems and lighting control systems, which are an integral part of the overall building;
5. assists the electrical engineer in developing a strategy for emergency lighting within the building.

Petitioner's work is incorporated into the architect's or engineer's signed sealed drawings. These drawings along with the specifications and general conditions form the contract documents to be used in the bidding and construction for the building. Occasionally, Petitioner will work directly for a building owner. In these cases, Petitioner's work is still coordinated and monitored by the architect and forms part of the architect's contract documentation.

Analysis

Tax Law §1105(c)(7) imposes sales tax on receipts from the sale, except for resale, of interior decorating and designing services (whether or not in conjunction with the sale of tangible personal property), by whomsoever performed, including interior decorators and designers, architects or engineers. Such services

