



**Department of
Taxation and Finance**
Office of Counsel

TSB-A-20(74)S
Sales Tax
December 1, 2020

Advisory Opinion: TSB-A-20(74)S

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (hereinafter "Petitioner"). Petitioner asks whether it should pay sales tax to another entity that charges Petitioner for packaging Petitioner's food product.

We conclude that the packaging of Petitioner's food product is not a service subject to New York State sales tax.

Facts

Petitioner is a manufacturing company in New York State. Petitioner outsources the packaging of the food product it manufactures to an unaffiliated entity in New York State. Petitioner provides both the food product and the bag to be used in packaging. Petitioner pays a set amount per bag to have its food product packaged, weighed, and sealed. At the end of each billing cycle, the entity provides Petitioner with an invoice reflecting the number of bags packaged multiplied by the agreed upon rate. The food product is then sold by Petitioner to various resellers.

Analysis

Tax Law § 1105(c) imposes sales tax on the receipts from every sale, except for resale, of certain enumerated services, including producing, fabricating, processing or imprinting tangible personal property for a person who directly furnishes the tangible personal property. Processing includes the performance of any service on tangible personal property for the owner which effects a change in the nature, shape or form of the property. 20 NYCRR 527.4(d). Filling, weighing and sealing bags of a food product constitutes the processing of tangible personal property. See *id.* However, such service is not subject to tax when it is performed on property intended for resale. See 20 NYCRR 527.4(a)(2). Accordingly, the entity's charge to Petitioner for filling, weighing and sealing the bag is not subject to New York State sales tax where Petitioner will then resell the processed food product.

DATED: December 1, 2020

/s/

DEBORAH R LIEBMAN
Deputy Counsel

Note: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.