

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (Petitioner) asking if sales tax is imposed on its sales receipts for video, lighting, and sound effect services performed in New York. We conclude that sales tax is not imposed on these receipts. However, compensating use tax is imposed on Petitioner's in-State use of equipment purchased elsewhere while conducting business in New York State.

**Facts**

Petitioner is incorporated in Delaware and commercially domiciled in California. Petitioner does not have an office in New York State. Petitioner is engaged in the business of providing professional consultation services to advise its customers in incorporating optimal video, sound, and lighting into large commercial and private exhibitions, shows, presentations, and general entertainment events. In conjunction, Petitioner utilizes its audio/visual and lighting equipment ("equipment") to provide audio and visual effects during such an event.

Petitioner begins by advising its customers on the possibilities of video, sound, and lighting for each unique event. Petitioner then determines its customer's production objectives and provides guidance to reach those objectives considering each specific venue and budget. After event details are finalized, Petitioner is responsible for the placement and operation of equipment necessary for the event. Petitioner assembles the necessary equipment onsite prior to each event. Petitioner then operates the equipment itself during each event. Petitioner never transfers control of the equipment to a customer. Likewise, Petitioner never transfers any other tangible personal property to its customers, e.g., event recordings.

**Analysis**

Petitioner provides professional consultation services to advise its customers on the capabilities of video, sound, and lighting equipment and on its potential within an event. Such consultation services are not one of the enumerated services on which sales tax is imposed pursuant to Tax Law § 1105(c). With respect to Petitioner's provision of audio and visual equipment during an event production, sales tax is not imposed on Petitioner's receipts as sales of tangible personal property under Tax Law § 1105(a) because Petitioner does not transfer possession or control of its equipment to its customers. 20 NYCRR 526.7. Rather, Petitioner uses its own equipment to provide video, sound, and lighting services. Those services also are not enumerated as taxed services pursuant to Tax Law § 1105(c). Accordingly, sales tax is not imposed on Petitioner's sales receipts.

