



Advisory Opinion: TSB-A-24(41)S

The Department of Taxation and Finance received a Petition for an Advisory Opinion from [REDACTED] (“Petitioner”), [REDACTED]. Petitioner asks whether its receipts from adult and children’s health and nature classes are subject to New York City’s local sales tax. We conclude that Petitioner’s classes are not subject to sales tax.

Facts

Petitioner operates a health and wellness business that offers classes to small groups of both adults and children. Petitioner’s classes take place strictly outdoors in local public parks in and around New York City. Petitioner’s programs for children occur once a week as part of an eight week after-school program. Petitioner’s adult classes are offered as single classes. Typically, the groups consist of fifteen to twenty participants. Petitioner’s curriculum has a mind and body focus with breathing, meditation and nature components. Petitioner oversees and trains instructors to include the elements of its curriculum. The classes include components to support body movement, cardiovascular movement, and overall health and well-being.

Analysis

New York State sales tax applies to the receipts from every retail sale of tangible personal property, except as otherwise provided for in the Tax Law, and the receipts from every sale (excluding sales for resale) of certain enumerated services. See Tax Law § 1105(a), (c). Petitioner’s health and nature classes are not an enumerated service and, thus, are not subject to the New York State sales tax.

Tax Law § 1212-A(a)(2) authorizes New York City to impose its local sales tax on certain services. New York City Administrative Code § 11-2002 imposes local sales tax on the receipts from every sale of services by weight control salons, health salons, gymnasiums, Turkish and sauna baths and similar establishments and every charge for the use of such facilities. In order for a charge to be subject to sales tax under this provision, it must be a charge made by one of the entities described, or a similar establishment. See TSB-A-13(6)S; TSB-A-10(46)S; TSB-A-17(16)S.

Petitioner does not operate an athletic club, weight control salon, gymnasium, or other similar establishment. Petitioner utilizes public spaces to provide its services and does not use a physical structure or facility. Petitioner is not a weight control salon, health salon, gymnasium, Turkish and sauna bath or similar establishment, as contemplated by NYC Administrative Code § 11-2002(a). Accordingly, Petitioner's charges are not subject to the New York City sales tax.

DATED: September 30, 2024

/s/

MARY ELLEN LADOUCEUR
Principal Attorney

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.