

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-82(3)S
Sales Tax
February 22, 1982

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810804B

On August 4, 1981 a Petition for Advisory Opinion was received from Roger S. Farber, DBA/RSF & Associates, P.O. Box 1017, Monticello, New York 12701.

The issue raised is whether an independent academic guidance and consulting service, which helps high school students locate sources of college scholarships, grants, loans and other sources of funds is required to collect sales tax on receipts from the consultation service rendered.

Student applicants complete a profile form which provides Petitioner with information relating to the student and his parents. Petitioner states that such data is vital to the program as "these factors are directly related to the qualifications of the source providing the funds."

The data submitted by the student and his parents are reviewed, coded and subjected to computer analysis. Such analysis results in the production of a printout of recommended sources of funding for which the student is most qualified. The student may then follow up on the leads furnished on such printout. Under certain conditions, a particular source of funds will be recommended to more than one student, due to the presence of factors common to a number of applicants.

Section 1105(c) of the Tax Law imposes a tax on: "The receipts from every sale, except for resale, of the following services: (1) The furnishing of information by printed . . . matter . . . , 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"

The Sales and Use Tax Regulations explain that "credit reports, tax or stock market advisory and analysis reports and product and marketing surveys" are among the services which constitute taxable information services. 20 NYCRR 527.3(a) (3).

Example 3 contained in such section of the Regulations provides that: "A firm which supplies to business concerns listings of prospective customers' telephone numbers is providing a taxable information service and must collect the appropriate tax on the charges for such service."

Example 4 contained in such section illustrates the manner in which the sales tax applies to fees for research performed for a customer, as follows: "A computer service company owns a service program consisting of analyses of law cases and statutes. It is asked by a customer to research all

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references to the word 'assessment'. The fee for the printout received by the customer constitutes a taxable receipt from an information service, as the citations listed may be given to another subscriber requesting the same information."

Petitioner's business is in some regards analogous to computer dating services, which have been held subject to the tax at issue herein. Letter of Counsel, February 27, 1967.

Inasmuch as data stored in Petitioner's data base will at times be furnished to more than one client, it cannot be held that the information furnished is personal and individual in nature and not to be "substantially incorporated in reports furnished to other persons," within the meaning of Section 1105(c)(1) of the Tax Law. Accordingly, the information service provided by Petitioner does not qualify for the exclusion provided in Section 1105(c)(1) of the Tax Law and the receipts from such service are accordingly subject to New York State and local sales taxes.

DATED: December 17, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau