

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

TSB-A-85(61)S
Sales Tax
December 4, 1985

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S850314A

On March 14th, 1985 a Petition for Advisory Opinion was received from Bonnie Herde, DBA Divorce Yourself, 76 Mamaroneck Avenue, White Plains, New York 10601.

The issue raised is whether the service provided by Petitioner is subject to sales tax.

Petitioner is engaged in the business of assisting individuals to obtain uncontested divorces. Petitioner obtains and fills out the necessary legal forms based upon information supplied to Petitioner by her clients. She then files these forms with the court and obtains the necessary court calendar and docket numbers. Petitioner states that she does not provide legal advice to her clients and does not sell forms and instructions or any other tangible personal property to her client.

Section 1105(a) of the Tax Law imposes a tax upon "the receipts from every retail sale of tangible personal property". The transfer of tangible personal property by Petitioner to her clients is merely incidental to the service performed by her and is not a retail sale within the meaning of section 1105(a) of the Tax Law.

Section 1105(c)(1) of the Tax Law imposes a tax upon "the furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons...." Inasmuch as Petitioner merely writes down information supplied by her clients without collecting, compiling or analyzing it, Petitioner is not furnishing an information service within the meaning of section 1105(c)(1) of the Tax Law.

Section 1105(c)(2) of the Tax Law imposes a tax upon "...printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed." Inasmuch as Petitioner's client does not directly or indirectly furnish the tangible personal property upon which the imprinting is performed, the imprinting of legal forms by Petitioner does not come within the provision of section 1105(c)(2) of the Tax Law.

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Accordingly, since the services performed by Petitioner do not come within the provisions of section 1105(a), 1105(c)(1) or 1105(c)(2) of the Tax Law and since no other provision of the Tax Law applies to the services provided by Petitioner, the service provided by Petitioner, as described above, are not subject to New York State sales or use tax.

DATED: November 4, 1985

s/FRANK J. PUCCIA
Director
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth herein.