

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

TSB-A-87(12)S  
Sales Tax  
February 25, 1987

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION      PETITION NO. S860926B

On September 26, 1986, a Petition for Advisory Opinion was received from Norstar Leasing Services, Inc., One Norstar Plaza (P.O. Box 1667), Albany, New York 12201.

The issue raised is whether Petitioner is liable for sales tax on computer printout paper it receives from its affiliate - a separate entity - in the form of reports.

Petitioner's computers are used by Data Services Company ("Data Company"), an affiliate, for performing record keeping services and printing reports for the Petitioner and its associates.

Data Company recovers its operating expenses, including the computer paper purchases, by allocating them to the Petitioner and the related companies. The allocation factor is the number of hours the central processing unit ("CPU") is used within a billing period for each associate. The CPU hourly rate is the only charge Data company makes for its services.

Data company pays sales tax on all purchases of computer paper and treats the tax as an allocable expense. Thus, the tax becomes an element of cost in the receipts Data Company collects from the Petitioner and the other affiliates.

Section 1101(b)(3) of the Tax Law defines the term "receipt" as "[t]he amount of the sale price of any property and the charge for any service taxable under this article, valued in money, . . . without any deduction for expenses."

The Sales and Use Tax Regulations of the State Tax Commission explain that, for application of the sales and compensating use tax, "[a]ll expenses . . . incurred by a vendor in making a sale, regardless of their taxable status and regardless of whether they are billed to a customer, are not deductible from the receipts." 20 NYCRR 526.5(e).

Additionally, the Tax Law contains the following definitions:

Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, . . . including the rendering of any service, taxable under this article, for a consideration or any agreement therefor.

Retail sales. (i) A sale of tangible personal property to any person for any purpose, other than (A) for resale as such or as a physical component part of tangible personal property, or (B) for use by that person in performing the services subject to tax under [Tax Law 1105(c)(1)] where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold

is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax. Tax Law §1101(b)(4)(i), (5).

Section 1105(c)(1) of the Tax Law imposes a tax on receipts from every sale, except for resale, of "[t]he 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, 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."

Accordingly, the nature of the services performed by Data Company determines whether it must pay sales tax on purchases of computer paper. If the paper is used to perform a taxable information service, no tax is due on the paper if Data Company issues a Resale Certificate (Form ST-120) to its supplier. When the service rendered by Data Company to Petitioner is not subject to tax under Tax Law 1105(c), the purchase of computer paper by Data Company is a taxable purchase.

Credit status reports issued by credit bureaus and stock quotation services are examples of taxable information services. Exempt services would include the preparation of payrolls, accounts receivable/payable and tax reports. 20 NYCRR 527.3(c)(1); see also Computers, Department of Taxation and Finance, Technical Services Bureau Bulletin 1978-1S, p4. However, accounting reports produced for one customer will become taxable if also distributed by Data Company, wholly or in part, to associates of the customer. See Tax Law 1105(c)(1), supra.

The Sales and Use Tax Regulations further provide that on invoices containing charges for both taxable and exempt goods or services the taxable amounts must be stated separately. If such amounts are not so separately designated, tax must be collected on the entire amount billed. 20 NYCRR 533.2(a)(1);(b)(2).

Once a receipt is determined taxable, the Tax Law allows no deduction for expenses (including sales tax the seller may have paid on operating expenses) except for charges specifically excluded from taxation under the Tax Law and Regulations, for instance certain amounts billed for interest and transportation. Tax Law 1101(b)(3), supra; 20 NYCRR 526.5(g),(h).

In conclusion, Petitioner is liable for payment of State and local sales tax on its purchases of taxable information services including any amounts attributable to computer paper. Data Company may request a refund for sales tax paid on computer paper incorporated in such taxable reports. 20 NYCRR 534.5. However, when performing a nontaxable information service for the Petitioner, Data Company - not the Petitioner - is considered the final consumer of the computer paper and therefore the person required to pay the tax on its purchase.

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Although this tax expense may be a factor in calculating the rate of compensation Data Company will charge for services, no liability for its payment is imposed on the Petitioner under the Tax Law.

DATED: February 25, 1987

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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