

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

TSB-A-87(3)S
Sales Tax
January 5, 1987

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S861009A

On October 9, 1986, a Petition for Advisory Opinion was received from Jeffrey A. Farkas, C.P.A., 105-04 Metropolitan Avenue, Forest Hills, New York 11375.

The issue raised is whether the sale of accounts by Petitioner's client constitutes a sale of a taxable information service as well as a sale in bulk of business assets.

Petitioner's client is in the business of selling an information service which is subject to tax under 1105(c)(1) of the Tax Law. Petitioner's client services approximately 200 subscribers to its semi-monthly publication and contemplates the sale of these accounts to its major competitor who produces a similar, almost identical, publication.

Section 1141(c) of the Tax Law provides that "Whenever a person required to collect tax shall make a sale, transfer, or assignment in bulk of any part or the whole of his business assets, otherwise than in the ordinary course of business, the purchaser, transferee or assignee shall at least ten days before taking possession of the subject of said sale, transfer or assignment, or paying therefor, notify the tax commission... of the proposed sale and of the price, terms and conditions thereof...."

It is well established that a customer list is an "asset" within the meaning of section 1141 of the Tax Law. "The word 'asset' given its ordinary meaning, means an item of value owned (Webster's Third New International Dictionary Unabridged). We conclude that asset includes such items as a customer list and the various other items sold...." (Matter of Long Island Reliable v. State Tax Commission, 72 AD2 826).

It is also well established that a customer list is a business asset the sale of which constitutes the sale of information and is, therefore, taxable under section 1105 (subd. (c)) of the Tax Law. Long Island Reliable Corp v. Tax Commission, *supra*; Wowkoych Enterprise Disposal Services, Inc. Decision of the State Tax Commission, January 3, 1986, TSB-H-86(12)S; Troiano Fuel Oil Co. October 20, 1981, Advisory Opinion of the State Tax Commission.

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Accordingly, the sale of Petitioners' client's customer list is both a sale in bulk of a business asset and a sale subject to tax under 1105 (c)(1) of the Tax Law.

DATED: January 5, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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