

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

TSB-A-87(6)S
Sales Tax
January 26, 1987

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S860908C

On September 8, 1986, a Petition for Advisory Opinion was received from L.G. & S.G. Inc, 235 E. 51st St., New York, New York 10022.

The issue raised is whether services performed by Petitioner are subject to the sales and use tax imposed under Articles 28 and 29 of the Tax Law.

Petitioner is engaged in the business of filing the various loose-leaf update services provided to its clients by the publisher/printer thereof (e.g., Commerce Clearing House, Prentice Hall). Petitioner does not provide the updated material and, in fact, has nothing to do with its ordering or mailing. Rather, such materials are supplied by the printer/publisher directly to the user. Petitioner's employee arrives at the user's office, inserts the new pages and removes the old ones. Petitioner maintains that it is providing strictly a filing service.

Section 1105(c)(3) of the Tax Law imposes a tax on receipts from the services of "[i]nstalling tangible personal property,...or maintaining, servicing or repairing tangible personal property... ." The terms "maintaining, servicing and repairing" are described as; "[t]erms used to cover all activities that relate to keeping tangible personal property in a condition of fitness, efficiency, readiness or safety or restoring it to such condition." 20 NYCRR 527.5(a)(3)

The loose-leaf services owned by Petitioner's clients clearly qualify as tangible personal property. Unless continually updated, such loose-leaf services quickly lose their usefulness. The service provided by Petitioner keeps its customer's property in a condition of fitness and readiness, and restores such property to its original condition. Consequently, Petitioner's service is deemed to be the maintaining, servicing or repairing of tangible personal property and is subject to the tax imposed under 1105(c)(3) of the Tax Law.

DATED: January 26, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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