

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

TSB-A-93 (32)S
Sales Tax
May 5, 1993

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S930104A

On January 4, 1993 a Petition for Advisory Opinion was received from Frederick A. Wightman C.P.A., P.C., 1038 West Jericho Turnpike, Smithtown, New York 11787.

The issue raised by Petitioner, Frederick A. Wightman C.P.A., P.C., is whether the service of providing information regarding internal controls relating to cash register operators is subject to the sales tax imposed under Sections 1105(c)(1) or (c)(8) of the Tax Law.

Petitioner's client checks the internal controls of retail stores by observing the procedures used by people operating cash registers when they ring-up sales and make change. Petitioner's client then writes a report in regard to the internal controls based upon its observations and supplies it to the store's management. If it detects fraud it does no enforcement or take any disciplinary action. It does not provide any security or detective services.

Section 1105(c) imposes a tax upon:

The receipts from every sale, except for resale, of the following services:

(1) 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, 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, ...

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(8) Protective and detective services, including, but not limited to, all services provided by or through alarm or protective systems of every nature, including, but not limited to, protection against burglary, theft, fire, water damage or any malfunction of industrial processes or any other malfunction of or damage to property or injury to persons, detective agencies, armored car services and guard, patrol and watchman services of every nature other than the performance of such services by a port watchman licensed by the waterfront commission of New York harbor, whether or not tangible personal property is transferred in conjunction therewith.

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Petitioner's client's service of checking internal controls and procedures of retail stores relating to cash register operators and submitting a report to the stores' management in regard to the internal controls is not one of the services subjected to sales tax by Sections 1105(c)(1) or (c)(8) of the Tax Law. However, it is noted that if Petitioner's client provides unannounced and undisclosed investigative inspections of retail stores for a store owner to whom a report is provided or provides the services of "fact finders", who pose as employees for the purposes of observing work performances and reporting on these observations to a store owner or conduct surveillance of persons for a store owner, such services would be protective and detective services subject to the sales tax imposed by Section 1105(c)(8) of the Tax Law. New York State Department of Taxation and Finance Publication 846(1/89), Sales Tax Information on Selected Services in New York City.

DATED: May 5, 1993

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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