

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

TSB-A-94 (8)S
Sales Tax
March 1, 1994

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S930611A

On June 11, 1993 a Petition for Advisory Opinion was received from Donald Schapiro, 30 Rockefeller Plaza, 23rd Floor, New York, NY 10112-0127.

The issues raised by Petitioner, Donald Schapiro, are:

(1) Whether the services of shampooing and dry cleaning oriental carpets and other rugs performed either at a customers location or at a plant are subject to sales tax.

(2) Whether the repair of an oriental carpet by weaving is subject to sales tax.

As part of its services, an entity shampoos and dry cleans rugs and carpets at its customers' locations or at the entity's own plant. The entity also repairs oriental carpets by hand. The process is performed by using a hand held needle and thread and by individually hand knotting threads.

Section 1105 of the Tax Law states, in part:

Imposition of sales tax.--...

... there is hereby imposed and there shall be paid a tax of four percent upon:

(a) The receipts from every retail sale of tangible personal property, except as otherwise provided in this article.

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

(3) Installing tangible personal property or maintaining, servicing or repairing tangible personal property, not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except:

(ii) any receipts from laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining; ...

Section 527.5 of the New York Sales and Use Tax Regulations states, in part:

Installing, repairing, servicing and maintaining tangible personal property. [Tax Law, §1105(c)(3)]

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(a) Imposition. (1) The tax is imposed on receipts from every sale of the services of installing, maintaining, servicing or repairing tangible personal property, by any means including coin-operated machines, whether or not any tangible personal property is transferred in conjunction with the services.

(b) Exemptions.

(3) Tax is not imposed on the services of laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining. . . .

The Department of Taxation and Finance has followed the policy of applying Section 1105(c)(3)(ii) of the Tax Law and Section 527.5(b)(3) of the Regulations not only to services performed on apparel but also to the cleaning of wall-to-wall carpeting, rugs, drapes and of upholstery, whether covered in cloth, vinyl fabric or leather. Matter of Rando Enterprises, Decision of the St Tax Comm, Dec. 23, 1971, STM 72-20; Broome Steam Carpet Cleaning Inc., Adv Op Comm T&F, November 16, 1987, TSB-A-87(42)S.

Consequently, Petitioner's receipts from charges to customers for the services of shampooing and dry cleaning oriental carpets and other rugs, whether performed at the customer's location or at Petitioner's location and from the repair of an oriental carpet by weaving fall within the exclusion from tax provided under Section 1105(c)(3)(ii) of the Tax Law and Section 527.5(b)(3) of the Sales and Use Tax Regulations and, accordingly, are not subject to the tax imposed under Section 1105(c)(3) of the Tax Law.

DATED: March 1, 1994

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

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