

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

TSB-A-96 (15)S
Sales Tax
February 28, 1996

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S950908B

On September 8, 1995, a Petition for Advisory Opinion was received from Nautical Miles, Ltd., 106 Ramapo Plaza, Suite 293, Pomona, New York 10970.

The issue raised by Petitioner, Nautical Miles, Ltd., is whether the fee charged for membership in Petitioner which entitles members to receive discounts at designated places of business is subject to State and local sales and use taxes.

Petitioner provides the following facts. Petitioner sells membership in its company to persons both within and without New York State. This membership entitles members to receive discounts at designated places of business. Members receive a list of the participating vendors offering discounts. In addition, members receive a membership card which they must present to vendors to receive the discounts.

The participating vendors sell mostly boating related materials or are restaurants on the waterfront. Petitioner solicits businesses to participate in its discount offer by attending boat shows where the vendors display their products. Vendors do not pay Petitioner a fee to be included on the list as one of the vendors which offers discounts to members.

Section 1105 of the Tax Law imposes tax on receipts from the sale of tangible personal property and certain enumerated services.

In this case, the sale of membership in Petitioner whereby members receive the right to discounts from designated vendors is considered the sale of an intangible. Therefore, the fee charged for membership in Petitioner is not subject to State and local sales and use taxes.

However, Petitioner must pay sales and use tax on the materials consumed in the production of the list of vendors and membership cards.

DATED: February 28, 1996

/s/
DORIS S. BAUMAN
Director
Technical Services Bureau

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