

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

TSB-A-97(22)S
Sales Tax

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S960731A

On July 31, 1996, the Department of Taxation and Finance received a Petition for Advisory Opinion from Equifax Services, Inc., P.O. Box 4081, Atlanta, Georgia 30302-4081.

The issue raised by Petitioner, Equifax Services, Inc., is whether the receipts from the sale of its mortgage loan services are subject to State and local sales taxes under Section 1105(c) of the Tax Law.

Petitioner submitted the following facts as the basis for this Advisory Opinion.

Petitioner is a Georgia corporation, authorized to do business in New York State, with its principal office located in Atlanta, Georgia. Among various business and financial services offered by Petitioner, it presently provides mortgage loan services to prospective mortgagees (i.e., customers). The essence of these mortgage loan services is the current, interpersonal verification by Petitioner of the assertions made by mortgage loan applicants via telephone interviews with the applicants' creditors, employers, landlords, etc. Immediate, current facts are generated from the personal interactions that occur during these interviews and based on the personal knowledge of the interviewees.

Each mortgage application being verified deals exclusively with the personal and individual facts concerning the mortgage loan applicant (i.e., the individual or family), at a given moment in time and for a particular customer. The verification has no continuing value or validity for any other purpose. If there is any reference at all in the application to accumulated, archival information (public or private), it only provides "tips and leads" to assist in providing the service of current garnering of current facts and circumstances concerning a particular loan applicant for a particular customer by telephone inquiries and interviews.

Opinion

Petitioner's mortgage loan services, consisting of the verification of mortgage loan applications, are not included among the enumerated services the receipts from the sale of which are subject to State and local sales taxes under Section 1105(c) of the Tax Law. Petitioner's verifications by telephone of the assertions made by mortgage loan applicants do not rise to the level of investigations as in the recent matters of Marvin Rosenthal (Adv Op Comm T&F, January 24, 1997, TSB-A-97(2)S) and Resume Verification, Inc. (Adv Op Comm T&F, March 27, 1997, TSB-A-97(14)S), and are of a nature excluded from the application of Article 7 of the General Business Law as it pertains to licensing of private investigators. (See, Compass Adjusters and Investigators Inc. v Commissioner of Taxation and Finance, 197 AD2d 38.)

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It is noted that, pursuant to the authority of Section 1212-A(a) of the Tax Law, Section 11-2040(a)(1) of the Administrative Code of the City of New York imposes a local tax upon receipts from the sale of credit rating and credit reporting services when the results of these services are delivered to customers in any of the boroughs of New York City. Petitioner has not raised this as an issue in its Petition for Advisory Opinion, and based on the facts submitted, no determination is being made or opinion rendered in this regard.

DATED: April 17, 1997

/s/
John W. Bartlett
Deputy Director
Technical Services Bureau

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