

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

TSB-A-97(50)S
Sales Tax

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S970321A

On March 21, 1997, the Department of Taxation and Finance received a Petition for Advisory Opinion from Richmond Events, Inc., 305 Madison Avenue, New York, New York 10165-3109.

The issue raised by Petitioner, Richmond Events, Inc., is whether amounts charged to its customers are subject to the New York State and local sales or use taxes.

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

Petitioner intends to hold business conferences on ocean liners that sail into international waters from New York harbor.

Petitioner will charter an ocean liner for a two-day, three-night period. During that time, Petitioner will run a number of events, where invited guests, who are senior officers of public companies, will meet with senior executives from a variety of technology product and service vendors. All of the events, including meals, will take place after the ship has left New York waters.

Attendance for the invited guests will be free of charge and by invitation only. The executives, who will be charged a flat rate, will be permitted to set up meeting areas in the ship's lounge, hold business meetings with guests, and participate in a program of strategic conferences and workshop sessions and networking activities. The flat rate will also include the charges for accommodations and the use of the ship's social and entertainment facilities. (Drinks on board and travel to and from the ship are not included.) Petitioner, as indicated, will charter the ocean liner, and will enter into a license agreement directly with the executives for their use of the ship's facilities.

Section 525.2(a)(1) of the Sales and Use Tax Regulations states that:

The sales tax is imposed on the receipts, unless specifically exempt, from every retail sale of tangible personal property, from every retail sale of specifically enumerated utility services, from every retail sale of other specifically enumerated services and from the sale of prepared or ready to be eaten food, for consumption on or off premises, drinks, restaurant and catered meals, and from charges for hotel occupancy, admissions and dues. Each of the various types of transactions has statutory exemptions, exceptions and limitations.

Since all events on the ship which might be subject to sales tax (such as the sale of meals) occur outside of New York State and its territorial waters, Petitioner's flat rate charges for the use of the ship's facilities are not subject to sales tax. However, if Petitioner sells any tangible personal property or provides any services subject to tax while the ship is docked in New York or underway in New York waters, it must collect the New York State and local sales and use tax.

DATED: August 14, 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.