

Taxability of Certain Laboratory Reports

This memorandum addresses how the sales and compensating use taxes apply to sales of reports providing results of a scientific laboratory analysis of environmental samples. The term *environmental samples* includes samples of water, waste material, emissions to sewer systems, pesticides, soil, air, etc. *Analysis*, for the purposes of this memorandum, consists of examining samples and making qualitative and quantitative determinations of the biological, chemical, radiochemical or physical characteristics of the samples. The laboratory performing the analysis then furnishes a written report of the analysis containing raw data that does not include any interpretation of the data or any recommendations.

The Tax Law, with certain limitations, imposes sales and use taxes on the service of furnishing information in written form. However, 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 persons other than the purchaser is not taxable. [Tax Law Section 1105(c)(1)]

Furnishing a report, of the results of scientific laboratory analysis constitutes an information service within the scope of section 1105(c)(1) of the Tax Law. These reports, however, are not subject to tax if they meet the two statutory requirements for exclusion. That is, the report must be personal or individual in nature, and the information contained in the report is not or may not be substantially incorporated in reports furnished to persons other than the purchaser.

To the extent that the report pertains only to the samples tested, the information in the report is personal or individual in nature. As long as the information contained in the report is not given to persons other than the customer or the customer's designee, the information is not given to others.

The exempt status of a laboratory report is not affected by the method used to collect the test sample. For instance, samples may be received in the mail, brought in by the customer or collected from the customer's property by or on behalf of the laboratory, etc. Moreover, whether the customer is the owner of the property, or a prospective purchaser of the property, or some other third party, does not by itself affect the taxable status of the report. Also, the fact that the report may provide a comparison of the contents of the sample to an established norm will not, by itself, render the report taxable.

EXAMPLE:

A laboratory collects a soil sample from a business for testing. After analyzing the sample, the lab furnishes the business with a written report of the analysis. Analysis of the sample found the presence of various mineral and chemical elements, which are set forth in a report in terms of so many parts per million. The report contains no interpretation of the findings and no recommendation is made with respect to the analysis. Furnishing the report is not subject to sales and use taxes.

Separation of Charges

Vendors who sell taxable goods or services and also sell scientific laboratory reports sometimes bill for reports and other taxable items together on one invoice. When the charge for a laboratory report that otherwise qualifies for exclusion from tax is billed on the same invoice with taxable goods or services, tax must be collected on the total charge unless the following requirements are met:

- the vendor offers scientific laboratory testing reports for sale;
- the charge for the laboratory report is shown separately on the invoice or statement given to the customer; and
- the separately stated charge is reasonable in relation to charges made for similar testing reports.

EXAMPLE:

A company performs water testing services and sells reports of the test results to its customer. It also sells and services water purification equipment. A customer may purchase just the water test report. The company's monthly billing to customer A, a private water supply company, reflects separate charges for weekly testing reports, as well as a charge for scheduled maintenance of the chlorinator. The charge for the water testing report is reasonable in relation to charges made for similar testing reports. The company must collect tax on the charge for the maintenance of the chlorinator but not on the charge for the water testing report. However, if the company's monthly bill reflects only one monthly charge for both services or, if a customer may not purchase just the water testing report, the company must collect tax on the whole charge.