

**New York State Department of Taxation and Finance**  
**Office of Tax Policy Analysis**  
**Taxpayer Guidance Division**

TSB-A-08(39)S  
Sales Tax  
August 25, 2008

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S071004A

On October 4, 2007, the Department of Taxation and Finance received a Petition for Advisory Opinion from Gateway EDI, Inc., One Financial Plaza, 501 North Broadway, Third Floor, St. Louis, MO 63102. Petitioner, Gateway EDI, Inc., provided additional information pertaining to the Petition on February 5, 2008.

The issue raised by Petitioner is whether charges to its clients for the services described below are subject to sales or compensating use tax.

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

Petitioner is a Missouri corporation licensed to conduct business in New York State. Petitioner is engaged in the business of providing information technology-related products and services to healthcare providers, including electronic claims submission, remittance posting, and related services.

Petitioner has acquired a New York State corporation (“Corporation A”). Corporation A is also engaged in the business of providing information technology-related products and services to health care providers, including electronic claims submission. As a result of this acquisition, Petitioner will be providing services to customers in New York.

Petitioner may provide some of the New York customers with an invoice production service. In performing this service, Petitioner’s customers (physicians) initially submit the patient’s billing information electronically to Petitioner, and an electronic claim is transmitted by Petitioner to the patient’s medical insurance company. Petitioner also facilitates electronic payments from medical insurance companies for the covered medical services to the physician. The physician may require Petitioner to process a patient invoice at this point if there is a remaining balance due for which the physician will require a payment from the patient. To produce a patient invoice Petitioner sends the patient’s billing and mailing information electronically to a vendor located outside of New York who prints and mails the invoice to the patient. Petitioner charges the physician for this service and Petitioner pays the vendor for printing and mailing the invoice. Petitioner only supplies the printer with the electronic billing and mailing information; Petitioner does not provide any printing-related supplies to the printer.

**Applicable law and regulations**

Section 1105 of the Tax Law provides, in part:

Imposition of sales tax. On and after June first, nineteen hundred seventy-one, there is hereby imposed and there shall be paid a tax . . . 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:

(1) The furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding 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 other persons,...

## **Opinion**

Petitioner is in the business of providing physicians with electronic processing of patient information to file medical insurance claims and issue patient invoices.

Petitioner's service begins with receiving a physician's patient billing information electronically from the physician's office. Petitioner uses the patient billing information to prepare and electronically transmit medical insurance claims to the appropriate insurance provider. After a claim has been processed by the insurance provider Petitioner further facilitates the electronic transmittal of payments from an insurance provider to physicians. Petitioner may also be required by the physician to process patient invoices. In such case, the patient's billing and mailing information is electronically transmitted by Petitioner to a printer for printing and mailing of the patient's invoice.

Petitioner's service involves electronic transmission of physicians' patient information, in electronic form, to medical insurance companies and printing vendors. Petitioner may change the format of the patient information being transmitted but the intelligence contained in such information is not changed. Accordingly, the service provided by Petitioner does not constitute an information service. See *Finserv v Tully*, 94 AD2d 197 (3<sup>rd</sup> Dept 1983), affd 61 NY2d 947 [1984].

Services are not subject to sales tax unless they are specifically designated as being subject to tax under section 1105(c) of the Tax Law. The services described by Petitioner of providing physicians with electronic processing of patient information to file medical insurance claims and issue patient invoices do not constitute any of the enumerated services specified under section 1105(c) of the Tax Law. Therefore, Petitioner's charges to its clients for providing

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such services are not subject to sales tax. See *Matrix Imaging Solutions, Inc.*, Adv Op Comm T&F, January 27, 2003, TSB-A-03(4)S.

DATED: August 25, 2008

/s/  
Jonathan Pessen  
Tax Regulations Specialist IV  
Taxpayer Guidance Division

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion.