

New York State Department of Taxation and Finance  
**Office of Counsel**  
**Advisory Opinion Unit**

TSB-A-11(6)S  
Sales Tax  
March 21, 2011

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S100908B

On September 8, 2010, the Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED]. Petitioner asks whether its sale of an abstract of title that certifies its results qualifies as an information service taxable under Tax Law section 1105(c)(1). We conclude that the certified abstract is an insurance product and is thus not taxable as an information service.

**Facts**

Petitioner sells abstracts of title in New York State. Attached to its abstracts is a page with its name and address at the top that includes the following language:

A Corporation duly incorporated under the Laws of the State of New York, for a valuable consideration to it paid, does hereby certify to the record owners of an interest in or specific lien upon the premises hereinafter referred to or described, that upon examination of the Grantor and Mortgagor Indexes to the Records in the office of the Clerk of the County of Monroe [and other public records] against the names of the parties shown below, during the record period of such ownership respectively from and including the date to the date hereof.

Against the following names:

And that it finds the items set forth in the foregoing Abstract of Title, and nothing more, and that said items are correctly set forth, and that there is nothing more in said indexes which appears to affect the premises or any part thereof, described in Liber of , at page in said Clerk's Office, set forth in said Abstract of Title in No. on the margin hereof (except liens or incumbrances correctly discharged of record.)

\* \* \*

And Petitioner further Certifies that no Judgment appears upon the docket books to have been docketed during the last ten years, and no Collector's Bond filed and indexed during the last twenty years, and no Financing Statements affixed to Real Property indexed during the last five years . . . except as correctly set forth in said Abstract of Title; that the items set forth in the foregoing Abstract of Title, including those taken from the records and files of the office of the Surrogate of "X" County, are correctly abstracted.

**Analysis**

Tax Law section 1105(c)(1) imposes sales tax on receipts from the service of furnishing information by printed, mimeographed or multigraphed matter, or by duplicating written or printed matter in any other manner. Effective September 1, 2010, sales of abstracts of title are taxable as information services (see TSB-M-10(7)S, *Sales and Compensating Use Tax Treatment of Certain Information*

*Services*). The Department has held that a “guaranteed title search” is not taxable (*see Abstracts of Title and Other Public Records Searches Tax Bulletin*, TB-ST-5). That conclusion was based on Insurance Law § 6403(b), which makes the “guarantee[ing]” of “the correctness of searches for all instruments affecting titles to real property” the doing of an insurance business.

The issue here then is whether Petitioner’s title abstract constitutes a guaranteed title search for purposes of Insurance Law section 6403(b). In an Opinion of the Office of General Counsel dated February 23, 2011 (“OGC Opinion”), the New York State Insurance Department addressed the question whether the issuance of the certified abstract described therein was the doing of an insurance business for purposes of Insurance Law section 6403(b)(1). The abstract stated that the certification was being provided for “a valuable consideration” and that the items listed in the abstract “are correctly set forth, and that there is nothing more in said indexes which appears to affect the premises or any part thereof.” The OGC Opinion held that, because the abstract “guarantees the correctness” of its search, its issuance “is the doing of an insurance business” for purposes of section 6403(b)(1). Based on the OGC opinion letter, Petitioner’s certified abstract also qualifies as a guaranteed title search and thus constitutes the doing of an insurance business. Accordingly, Petitioner’s certified abstract is an insurance product and is not taxable as an information service.

DATED: March 21, 2011

/S/  
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DANIEL SMIRLOCK  
Deputy Commissioner and Counsel

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.