

**New York State Department of Taxation and Finance
Office of Counsel**

TSB-A-17(17)S
Sales Tax
August 3, 2017

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S170310A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] [REDACTED] (“Petitioner”). Petitioner asks whether it must collect sales tax from sales of its fire safety training program. We conclude that Petitioner’s sales of its fire safety training program are not subject to sales tax.

Facts

Petitioner sells equipment and services related to fire protection, fire suppression, and fire safety solutions to commercial, industrial, and public facilities. Petitioner offers a training program in which Petitioner’s employees travel to the customer’s business locations to present the program. The program consists of a combination of lectures, group discussions, custom PowerPoint presentations, video, and a "hands-on" experience using a digital extinguisher training system, in which all attendees, under the direction of Petitioner’s employees, operate a laser digital extinguisher to put out a “fire” simulated on a video screen. All aspects of the training are provided in person by Petitioner’s employees. The video is transported by Petitioner’s employees for use at the training program location to supplement their instruction and to prompt discussion. The program is meant to ensure customers meet their annual Occupational Safety and Health Organization and New York State Department of Labor requirements and prepare staff for fire emergencies. The training program does not involve the transfer of any tangible personal property to the customer.

Analysis

Retail sales of tangible personal property and certain enumerated services are subject to sales tax. *See* Tax Law § 1105(a),(c). Petitioner’s training program, including live training, video, and on-site drills, constitute instructional services that are not among the taxable services in Tax Law § 1105(c) and therefore are not subject to tax. *See* TSB-A-08(41)S. In allowing the customers’ employees to operate the digital fire extinguisher simulator, under the supervision and control of Petitioner’s employees, to put out a simulated fire, Petitioner does

not transfer possession or control of the fire extinguisher simulator and, therefore, Petitioner is not selling the fire extinguisher simulator. *See* Tax Law § 1101(b)(5); 20 NYCRR 526.7(e).

DATED: August 3, 2017

/S/

DEBORAH R. LIEBMAN
Deputy 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. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.