

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (“Petitioner”). Petitioner asks whether its personalized astrological birth chart reading services are subject to New York State sales tax.

We conclude that Petitioner’s sales of its personalized astrological birth chart reading services are not subject to New York State and local sales and use taxes.

**Facts**

Petitioner provides a free website and application that includes daily and monthly horoscopes, a love and compatibility calculator and a content library.<sup>1</sup> The web application also includes daily and monthly horoscopes. Petitioner also provides its “premium” (paying) customers live one-on-one astrological birth chart readings online via its application and website.<sup>2</sup> A birth chart contains information about all areas of a customer’s life, including career, love, family and home life. Premium customers receive readings about the planets’ positions at the exact moment of the customer’s birth. Petitioner’s astrologers examine the planets’ positions and interactions with one another to see how the planet alignments shape the customer’s personality, motivations and desires. Premium customers may receive an individual session with an astrologer and may ask specific questions related to their reading. Petitioner states that no two astrological readings are the same and a premium customer pays Petitioner for the astrologer’s time and expertise.

**Analysis**

Sales tax is imposed on the service of “furnishing . . . 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 . . . .” Receipts from the sale of information services that are personal or individual in nature, and that are not or may not be substantially included in reports given to other persons are exempt from sales tax. See Tax Law § 1105(c)(1). Whether a service qualifies as an information service depends on its primary function, as determined by the nature of the service being sold and on what is being paid for by the purchaser.

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<sup>1</sup> Petitioner did not request, and we do not provide, an opinion about whether the free application is subject to sales tax.

<sup>2</sup> When Petitioner first submitted its Advisory Opinion request, it stated that its services were provided via a 3<sup>rd</sup> party vendor application. However, Petitioner has since notified the Department of Taxation and Finance that it no longer uses the 3<sup>rd</sup> party vendor application to provide its services and, instead, Petitioner provides its services through its own website and a free application.

Here, Petitioner's paid services involve providing personalized astrological readings to its customers. Providing astrological readings is clearly distinguishable from a taxable information service of simply retrieving, collecting, compiling and furnishing information. While the astrologers provide information to the premium customers, this service principally involves the giving of guidance, advice, and predictions based upon the astrologer's expertise in reading a customer's planetary birth chart. Accordingly, Petitioner's services do not constitute an information service under Tax Law § 1105(c)(1).

Sales tax is also imposed upon information and entertainment services delivered via telephony and telegraphy or telephone and telegraph service. See Tax Law § 1105(c)(9)(i). Information services delivered via telephony and telegraphy are not subject to tax unless the information service would be subject to the tax imposed by Tax Law § 1105(c)(1) if the information was delivered in written or printed format. Tax Law § 1105(c)(9)(ii) also imposes an additional 5% tax on the receipts from the sale of information and entertainment services delivered via telephony and telegraphy and telephone and telegraph service when the services are received by the customer in an exclusively aural manner. Since Petitioner's services are not taxable as an information service under Tax Law § 1105(c)(1), such services are also not taxable under Tax Law § 1105(c)(9). In addition, because Petitioner's services are provided via the internet through its website and mobile application rather than telephony, these services are also not taxable as an information or entertainment service for purposes of Tax Law § 1105(c)(9)(i) and (ii). See Tax Law § 179.

DATED: August 2, 2024

/s/  
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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.