

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 if the disassembly, removal and disposal of used office furniture for companies that are moving or remodeling is subject to sales tax.

We conclude that Petitioner's service is subject to sales tax as a real property maintenance service under Tax Law §1105(c)(5).

Facts

One of the services Petitioner provides is the disassembly, removal and disposal of used office furniture for companies that are moving or remodeling. Petitioner uses its own equipment and trailers to remove, transport and dispose of the furniture. Petitioner will do light demolition, if necessary, to remove attached fixtures and will dispose of debris. Petitioner charges a customer a single fee, which is determined by the square footage and the number of trailers needed to dispose of the furniture. Petitioner disposes of all of the customer's furniture that it removes.

Analysis

Tax Law §1105(c)(5) imposes sales tax on maintaining, servicing or repairing real property. Maintaining, servicing and repairing covers all activities that relate to keeping real property in a condition of fitness, efficiency, readiness or safety or restoring it to such condition. *See* 20 NYCRR 527.7(a). The services of trash or garbage removal, whether from inside or outside of a building, are considered to be taxable as the service of maintaining and servicing real property. *See* 20 NYCRR 527.7(b)(2). The service of picking up, transporting and disposing refuse has been held to be an integrated service that cannot be separated into discrete components. *See Matter of Cecos Int'l, Inc. v. State Tax Comm'n*, 71 NY2d 934 (1988); *Matter of Penfold v. State Tax Comm'n*, 114 AD2d 696 (3d Dep't 1985). Thus, Petitioner's entire receipt for its furniture disassembly, removal and disposal service is subject to tax if the real property from which the furniture is removed is located within this State.

DATED: August 21, 2024

/s/

MARY ELLEN LADOUCEUR
Principal Attorney

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.