

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-81(36)S  
Sales Tax  
October 20, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810608B

On June 8, 1981 a Petition for Advisory Opinion was received from Hooper Holmes, Inc., 170 Mt. Airy Rd., Basking Ridge, New Jersey 07920.

The issue raised is whether Petitioner is required to collect New York State sales tax upon the sale of an information service to a customer located in New York State, when the service is delivered out of state to a third party designated by the customer.

Petitioner is located in New Jersey. It receives and processes information for "B", a corporation located in New York State. The service performed by Petitioner for "B" would be subject to sales tax under Section 1105(c)(1) of the Tax Law if the service is delivered within New York State. Upon completion of its service for "B", Petitioner delivers its work product, at "B"'s request, to "C", a corporation located in Connecticut. "C" uses the information furnished by Petitioner in preparing its own work product for "B". "C" delivers its product to "B" in New York State.

The Sales and Use Tax Regulations describe the sales tax as "A 'destination tax' , that is, the point of delivery or point at which possession is transferred by the vendor to the purchaser or designee controls both the tax incident and the tax rate." 20 NYCRR 525.2(a)(3).

Petitioner performs an information service within the meaning of section 1105(c)(1) of the Tax Law. The service is delivered outside New York State to a designee of the purchaser of the service who acts as the purchaser's agent for purposes of taking delivery. Since delivery of the information service does not occur within New York State, no tax incident arises. 20 NYCRR 525.2(a)(3). Therefore, information services performed by Petitioner for its New York customer is not subject to New York State sales tax. Accordingly, Petitioner is not required to collect sales tax upon the sale of this information service, when delivered outside New York State.

DATED: October 5, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau