

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

TSB-A-81(57)S
Sales Tax
November 27, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810831A

On August 31, 1981 a Petition for Advisory Opinion was received from Oswego County Savings Bank, 44 East Bridge Street, Oswego, New York 13126.

The issue raised is whether or not Petitioner is being charged the proper sales tax on purchases of computer services.

Petitioner has contracted with a computer service center for on-line computer services in conjunction with Petitioner's banking business. The services provided by the computer center consist of the maintenance of: depositors savings accounts, consumer and mortgage loans, certificate of deposit interest accounts, and various management type reports. Charges for the various services provided are stated in a contract executed between Petitioner and the computer center. Petitioner is billed at the end of each month for the services rendered during that month. The invoice is itemized and sales tax is added to the charges for certain transactions according to the rate in effect at the location of Petitioner's office for which the service was performed.

Section 1105(c)(1) of the Tax Law imposes a tax on receipts from every sale, except for resale, of: "The furnishing of 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, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons . . .".

The on-line computer services provided Petitioner by the computer center constitute an information service which is personal or individual in nature and which is not or may not be incorporated in reports furnished to other persons. Accordingly, the charges by the computer center to Petitioner for the on-line computer services described are excluded from tax pursuant to section 1105(c)(1) of the Tax Law.

Petitioner may claim a credit for any tax paid on the services at issue on its quarterly Sales and Use Tax Return (ST-100), at line 2a, page 1 or may claim a refund of such amount separate from the filing of a return, using Form AU-11. In either instance, Petitioner must maintain appropriate documentation to substantiate the amount so claimed. Such credit or refund must be claimed within three years from the date the tax collected was payable by the computer/center to the State Tax Commission.

DATED: November 18, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau