

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

TSB-A-86(30)S  
Sales Tax  
July 28, 1986

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S840529B

On May 27, 1984 a Petition for Advisory Opinion was received from Fortunato Sons Inc., 150 Knickerbocker Avenue, Bohemia, New York 11716.

The issue raised is whether Petitioner is required to pay sales tax on charges by a materials testing laboratory ("Laboratory") for the services of testing concrete samples for strength and standards.

Petitioner is a contractor who purchases the testing services in conjunction with its performance of construction contracts.

Section 1105(c) of the Tax Law imposes a tax on the receipts from every sale, except for resale, of the following services:

"(1) 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....(Emphasis added).

Regulation Section 527.3 further explains Section 1105(c)(1) of the Tax Law:

"(a)...(2) The collecting, compiling or analyzing information of any kind or nature and the furnishing reports thereof to other persons is an information service.

"(b)...(2) The sales tax does not apply to the receipts from the sale of information which is personal or individual in nature and which is not or may not be substantially incorporated into reports furnished to other persons by the person who has collected, compiled or analyzed such information.

"Example 1. The report submitted by a private detective agency to its clients is a personal report, the charge for which is not taxable."

The report prepared by the Laboratory represents a compilation of data derived from analysis of a test sample. The sale of this report in written form, therefore, constitutes the rendering of an information service within the meaning and intent of the statutory provisions set forth above.

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Since each concrete sample is unique, as is the test result obtained from it, the report generated by the Laboratory is "personal and individual in nature", thus satisfying the first condition for exclusion from taxation. (Tax Law 1105(c)(1), supra).

The second condition for exclusion mandates that the information may not be substantially incorporated in reports to other persons. Consequently, the test report may be sold to one person only, the Petitioner. If, however, on request of the Petitioner, the Laboratory furnishes copies of the report to its designees, such services will not negate the above quoted exclusion provided in the Tax Law. See State Tax Commission Declaratory Ruling 78-02, TSB-H-80(97)S; David J. Converse, State Tax Commission Advisory Opinion, August 4, 1981, TSB-A-81(12)S.

Accordingly, laboratory test reports purchased by the Petitioner which meet both criteria contained in the exclusionary clause of Tax Law 1105(c)(1) constitute a non-taxable information service.

DATED: July 28, 1986

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth herein.