

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

TSB-A-86(51)S  
Sales Tax  
December 4, 1986

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S840719A

On July 19, 1984, a Petition for Advisory Opinion was received from Skyview Graphics, Inc., 15 East Bethpage Road, Plainview, New York 11803.

The issue raised is whether certain services provided by Petitioner are subject to state and local sales and use tax.

Petitioner performs a bulk mailing service in Plainview, New York and within that context queries as to the taxability of the following services:

- (1) Glue address labels to material to be mailed (cheshiring);
- (2) Glue on seals to either media or mailing envelopes or both (tipping);
- (3) Glue on circular seals to self sealing envelopes in lieu of normal envelope sealing;
- (4) Imprint customer marketing codes on reply cards, etc;
- (5) Machine or hand affix U.S. postage stamps to mailing envelopes;
- (6) Run envelopes through postage meters, using either customers' or own postage;
- (7) Imprint indicia on insert (imprint legend "bulk fees paid", "postage permit #", etc);
- (8) Insert printed matter into mailing envelopes;
- (9) Zip code sort inserted pieces;
- (10) Bag and mail; and
- (11) Pack completed envelopes into cartons and ship by common carrier. These items are either mailed from foreign countries (e.g. Canada) or become part of a finished product shipped or sold by Petitioner's customer (warranties, guarantees, proof of purchase, etc).

Petitioner states that the mailings are made to points within and without New York State and that most of the items processed are printed by others, however, a small amount is printed by Petitioner.

Section 1105(c)(2) of the Tax Law imposes a sales tax on the receipts from every sale except for resale of the services of "[p]roducing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed.

The services performed by Petitioner constitute the services enumerated as taxable in section 1105(c)(2) of the Tax Law. However, in administering this provision of the Tax Law, the State Tax Commission has applied the following policy:

All services required to put written or printed matter in a completed state are subject to tax. However, when performed upon the property of an ultimate consumer, the receipts from the services of folding written or printed matter for insertion into envelopes, sealing, affixing stamps, metering and mailing, and the cost of postage are not subject to tax if the charges therefore are separately stated on any evidence of sale rendered to the customer.

This policy was adopted from a portion of Article 78 of the Sales and Compensating Use Tax Regulations of the City of New York which expired August 1, 1965.

Based on this policy, when separately stated on the invoice given to the customer, Petitioner's services listed as items (5) (6) (8) (9) (10) and (11) are not subject to state or local sales and use tax. Additionally, however, items (1) (2) (3) (4) and (7) are subject to state and local sales and use tax.

The Collection and Reporting Instructions for Printers and Mailers [ST-152 (5/71)] state in part:

A mailer or printer-mailer is required to collect the statewide and appropriate local sales taxes on his printing, addressing, and other taxable charges for printed matter mailed to persons in New York State. The mailer or printer-mailer must maintain records showing the portion of the matter he mailed to persons outside New York State and destinations of all matter to persons in New York State.

The statewide tax and local sales taxes at the rate in effect where delivery is made must be collected on the entire charge where printed matter is delivered to the customer in New York State even if the customer will subsequently send some or all of the matter to persons outside New York State.

In recognition of the unique problems presented by the imposition of the sales tax within the mailing service industry, the Collection and Reporting Instructions for Printers and Mailers [ST-152 (5/71)] provide for an alternative method of computing the tax on certain mailings which are sent to destinations both within and without New York State. This method provides for a means of allocating the costs of the taxable mailing services between in-state and out-of-state destinations, as well as among the various jurisdictions within New York State. [See ST-152 (5/71)]

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However, the Collection and Reporting Instructions for Printers and Mailers [ST-152 (5/77)] contain a caveat restricting the extent to which the alternative method may be applied. These instructions state the following:

The alternative method set forth on Form ST-152 (5/71)] cannot be used with respect to printed matter upon which clerical, office typing or computer printing operations are required in order to prepare the printed matter in acceptable form for the individual recipient and to accommodate the senders usual use of such items. Thus, printed items such as invoices, statement forms, payment notices, letterheads, envelopes for correspondence, and items which by their contents are not interchangeable with other recipients on the mailing list are subject to the New York State sales tax in effect at the point from which the actual mailing service occurs.

In the absence of more explicit information as to the type of items mailed and the destinations to which they are mailed, the extent to which the alternative method may be used by Petitioner cannot be determined within the context of this advisory opinion.

DATED: December 4, 1986

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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