

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

TSB-A-87(17)S  
Sales Tax  
April 22, 1987

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO: S840416A

On April 16, 1984, a Petition for Advisory Opinion was received from Putnam Associates, 12 Pleasant Street, P.O. Box 148, Newburyport, Massachusetts 01950.

The issue raised is whether Petitioner is providing an information service subject to tax under Section 1105(c)(1) of the Tax Law.

Petitioner operates a marketing advisory service for manufacturers of such retail merchandise as cosmetics, fragrances or dinnerware. The reports Petitioner sells chart inventory levels and sales of these products in nationwide retail stores.

On the basis of data gathered from such establishments, Petitioner's researchers prepare listings, graphs and statistics. This material may be given to the client with a written summary report or Petitioner may turn it over after an oral presentation which explains and interprets the research result. The number of reports a customer purchases may range from only one to periodical reports over several years.

Petitioner maintains its clients do not purchase information but a consulting service where the written material supplied is merely incidental to the performance of a professional service. Petitioner's periodical charges for its activities are billed to the client in a single amount.

Since the format of each report and the products studied are determined by the client, Petitioner asserts that the information furnished is personal and individual.

Furthermore, each subscriber to Petitioner's services must sign an agreement wherein the parties to the contract affirm they will not divulge, publish or sell copies of the reports or any extracts therefrom to persons outside the client organization.

Section 1105(c)(1) of the Tax Law imposes a tax on the 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. . . ."

Pursuant to the Sales and Use Tax Regulations of the State Tax Commission, product and marketing surveys are information services. 20 NYCRR 527(a)(3).

Clearly, Petitioner's business is to collect and furnish information. The charts, graphs and statistics the clients receive consist of data which have been collected, compiled and analyzed. Their sale therefore constitutes the rendering of an information service within the meaning and intent of the statutory provisions quoted above.

In determining whether the information Petitioner markets is "personal or individual" it could be said that Petitioner's research reports are customized and personalized by the clients selection of the retailers, merchandise categories and time frames of a survey. However, the statutory exclusion does not require individualized reports; it requires that the underlying information be personal or individual. Matter of Rich Products Corp., Decision of the State Tax Commission, June 12, 1986, TSB-H-81(95)S.

In Matter of New York Life Ins. Co. v. State Tax Commission, (80 AD2d 675, affd sub nom. Matter of Metropolitan Life Ins. Co. v State Tax Comm. 55 NY2d 758), confidential character reports containing highly personal information about individuals were held to be of the uniquely personal and individual nature contemplated by the Tax Law.

The data gathered by the Petitioner are not of such a personal and individual character. The reports are compiled from general sources accessible to any of Petitioner's competitors. Moreover, a comparative study of the market movement of a particular product for one manufacturer accumulates a substantial amount of reference material potentially useful to Petitioner in the preparation of reports for other manufacturers of equivalent products. Such use of the raw data would not be prohibited by Petitioner's agreement to keep reports confidential, since the research statistics taken out of the context of a report are not confidential information.

In consequence, since Petitioner's marketing surveys meet neither condition for exclusion from taxation contained in Tax Law 1105(c)(1), quoted above, they are taxable information service. Cf. Matter of Towne-Oller and Associates v. State Tax Commission, 120 AD2d 873.

Sales and Use Tax Regulation Section 527.3(a)(4) applies the following rules in determining the taxability of information services that include both oral and written reports:

- (i) Any fee for a written report is taxable.
- (ii) Any fee for an oral report is taxable if the oral report is preliminary to the written report.

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(iii) An annual fee for subscribing to a service is taxable if it entitles the subscriber to a certain number of free reports, or to reduced charges on reports, unless the subscriber is entitled only to oral reports.

Accordingly, Petitioners receipts from the sale of market research reports are subject to the applicable State and local sales taxes.

DATED: April 22, 1987

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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