

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

TSB-A-87(26)S
Sales Tax
August 31, 1987

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S870519A

On May 19, 1987, a Petition for Advisory Opinion was received from Lockwood Support Services, Inc., 36 Karlan Drive, Rochester, New York 14617.

The issue raised is whether the sale of photogrammetric services and mapping are subject to New York sales and use tax.

Petitioner is in the business of making aerial maps, surveys, and charts. Petitioner's clients' include the Department of Transportation of the State of New York as well as other states which use detailed contour maps of sites being prepared for road, bridge or public work improvement.

Petitioner contends that it is providing an information service which is excluded from the tax imposed by section 1105(c)(1) of the Tax Law. Petitioner maintains that its services are contracted for by its clients and when the work is completed, the mapping is delivered to the client and no other person. Copies of mapping are retained by Petitioner but are not sold or provided or used by Petitioner or anyone else. In addition, the mapping services provided are not incorporated in the services rendered to another client.

Section 1105(c)(1) of the Tax Law imposes a tax on the receipts from the service of furnishing information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any manner such as by tapes, discs, electronic readouts or displays. 20 NYCRR 527.3(a)(1).

The tax imposed by section 1105(c)(1) is imposed upon information which is supplied by the printed word or which can be conveyed in some manner in a written form of communication. It also includes the modern counterparts; tapes, discs, electronic readouts or displays.

Although information may be abstracted from maps, architectural drawings, photographs and the like, they are not considered information for purposes of section 1105(c)(1) of the Tax Law.

Section 1105(a) of the Tax Law impose a sales tax upon "[t]he receipts from every retail sale of tangible personal property, except as otherwise provided in this article."

Section 526.8 of the sales tax regulations defines tangible personal property as follows:

526.8 Tangible personal property. (Tax Law, § 1101[b][6]) (a) Definition. The term tangible personal property means corporeal personal property of any nature having a material existence and perceptibility to the human senses. Tangible personal property includes, without limitation:

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(3) artistic items, such as sketches, paintings, photographs, moving picture films and recordings;

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Accordingly, for sales tax purposes, aerial maps, surveys and charts qualify as tangible personal property within the meaning of regulation section 526.8(a). The sale of such maps, surveys and charts is the sale of tangible personal property which is subject to tax under § 1105(a) of the Tax Law.

Petitioner is required to collect sales tax on its sales of maps, surveys and charts unless it receives from its customers properly completed exemption documents (e.g. resale certificates or exempt organization certificates). In this regard, it is noted that purchases of aerial maps, surveys and charts by the New York State Department of Transportation are exempt from tax pursuant to section 1116(a)(1) of the Tax Law which exempts "[t]he state of New York, or any of its agencies, instrumentalities ... or political subdivisions where it is the purchaser, user or consumer "In such a case, the Department of Transportation government purchase order is deemed to be a satisfactory exemption document and no additional exemption certificate is required.

It is also noted that other states and their agencies, instrumentalities and subdivisions are not exempt from sales tax pursuant to the provisions of section 1116(a)(1) of the Tax Law.

DATED: August 31, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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