

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

TSB-A-87(30.1)S
Sales Tax
February 8, 1988

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

MODIFIED ADVISORY OPINION PETITION NO. S870602C

On August 31, 1987, an Advisory Opinion was issued to Consolidated Edison Company of New York, Inc., 4 Irving Place, Room 208, New York, New York 10003. Such Advisory Opinion is modified by appending thereto the following discussion of factual situations not treated therein.

The issue raised is whether Petitioner's sales of service to public assistance customers under the alternative circumstances described herein constitutes a sale to an exempt organization for purposes of the sales and use tax imposed under Articles 28 and 29 of the Tax Law.

Petitioner, in cooperation with the New York State Department of Social Services, has instituted a new "Direct Vendor" program with regard to certain public assistance clients located in New York City and Westchester County. Petitioner describes this program as follows:

A. Direct Vendor Program - New York City

(1) An eligible client presents Petitioner with a form issued by the Human Resources Administration, (hereinafter "HRA") which notifies Petitioner that HRA has made a commitment to pay the future utility bills of the client.

(2) Petitioner encodes the client's account to specifically identify such client as a Direct Vendor Customer.

(3) A notice is sent informing the client of both the cost and the amount of consumption with a further statement that the bill will be paid by HRA.

(4) A computer tape with the same information is forwarded to HRA.

(5) HRA pays the bill directly to Petitioner.

B. Direct Vendor Program - Westchester County

(1) An eligible client presents Petitioner with a form issued by Westchester County Department of Social Services, (hereinafter "WCDSS") which notifies Petitioner that WCDSS has made a commitment to pay the future utility bills of the client.

(2) Petitioner will encode the client's account to specifically identify such client as a Direct Vendor Customer.

(3) A bill (rather than a tape) is forwarded to WCDSS.

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(4) WCDSS pays the bill directly to Petitioner.

Under each of the programs described in this modified advisory opinion, the order for services is deemed to be placed by an agency or instrumentality of the state or a political subdivision thereof. Similarly, the bill for services rendered is deemed to be prepared in the name of such an agency or instrumentality. Finally, payment for the services is clearly made by such an agency or instrumentality.

Accordingly, it is concluded that the transactions described in this modified advisory opinion are exempt from sales tax pursuant to the exemption provided under section 1116(a)(1) of the Tax Law.

DATED: February 8, 1988

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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