

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-A-00(35)S
Sales Tax
September 7, 2000

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S000315A

On March 15, 2000, the Department of Taxation and Finance received a Petition for Advisory Opinion from Pet Pals Pet Sitting, Inc., 648 Central Park Avenue, PMB 167, Scarsdale, NY 10583.

The issue raised by Petitioner, Pet Pals Pet Sitting, Inc., is whether the services of pet sitting, which includes dog walking, refreshing cat litter boxes, or providing food to the pets is subject to State and local sales and use taxes.

Petitioner submits the following facts as the basis for this Advisory Opinion.

Petitioner provides a pet sitting service for clients in their homes. During a half hour visit, Petitioner will walk the client's dog, refresh the litter box of the client's cat, or provide food to the pet.

Applicable Tax Law and Regulations

Section 1105 of the Tax Law provides, in part:

Imposition of sales tax – On and after June first, nineteen hundred seventy-one, there is hereby imposed and there shall be paid a tax of four percent upon:

* * *

(c) The receipts from every sale, except for resale, of the following services:

* * *

(3) Installing tangible personal property . . . or maintaining, servicing or repairing tangible personal property . . . not held for sale in the regular course of business . . . whether or not any tangible personal property is transferred in conjunction therewith, except:

(i) such services rendered by an individual who is engaged directly by a private home owner or lessee in or about his residence and who is not in a regular trade or business offering his services to the public

Section 1115(s)(1) of the Tax Law, as added by Chapter 201 of the Laws of 1995, provides:

The sale of any good or service necessary for the acquisition, sustenance or maintenance of a guide dog, a hearing dog or a service dog, as defined in section one hundred eight of the agriculture and markets law, which is utilized by any person with a disability, shall be exempt from taxation pursuant to this article.

Section 526.8(a) of the Sales and Use Tax Regulations provides, in part:

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:

* * *

(4) animals, trees, shrubs, plants and seeds

Section 527.5(a)(3) of the Sales and Use Tax Regulations provides, in part:

Maintaining, servicing and repairing are terms used to cover all activities that relate to keeping tangible personal property in a condition of fitness, efficiency, readiness or safety or restoring it to such condition.

Opinion

In this case, Petitioner sits for clients’ pets in its clients’ homes. During a half hour visit, Petitioner will walk the client’s dog, refresh the litter box of the client’s cat, or provide food to the pet.

Pursuant to Section 526.8(a)(4) of the Sales and Use Tax Regulations, pets are considered to be tangible personal property. Therefore, the maintaining and servicing of pets is taxable under Section 1105(c)(3) of the Tax Law and Section 527.5 of the Sales and Use Tax Regulations. The services provided by Petitioner are deemed to be maintaining and servicing tangible personal property. Accordingly, the services provided by Petitioner are subject to State and local sales taxes.

Section 1115(s) of the Tax Law provides that sales of any goods or services necessary for the acquisition, sustenance or maintenance of a guide dog, hearing dog, or service dog are not subject to sales tax. Therefore, services provided by Petitioner with respect to such dogs will not be subject to tax.

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It should be noted that pet sitting services rendered by an individual who is hired directly by a private home owner or lessee, and who does not offer these services to the public as part of a regular trade or business, are not subject to sales tax. See Section 1105(c)(3)(i) of the Tax Law.

DATED: September 7, 2000

/s/
John W. Bartlett
Deputy Director
Technical Services Division

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