

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

TSB-A-02(58)S
Sales Tax
December 12, 2002

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S991019C

On October 19, 1999, the Department of Taxation and Finance received a Petition for Advisory Opinion from Jeffrey M. Strank, 155 East 77th Street, New York, New York 10021.

The issue raised by Petitioner, Jeffrey M. Strank, is whether the fees to attend the events organized and marketed by Petitioner and described below are subject to sales tax.

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

Petitioner organizes and markets two types of events for singles. The first type of event is denoted as a "Jewish Singles" event. Petitioner calls his second event a "Netparty" which is further described as "Business and Social Networking Events For Young Professionals."

The primary function of Petitioner's "Jewish Singles" events is to facilitate dating by providing a forum for single individuals of the Jewish faith and within a specific age range to meet. The primary function of Petitioner's "Netparty" is to facilitate dating and/or business networking, by providing a forum for single professionals within a specified age range to meet. The current "Netparty" logo contains the tagline "It's How To Meet."

Petitioner markets his "Jewish Singles" events in singles publications, in the "singles" listings of newspapers and magazines, in Jewish newspapers and magazines, and in mass media outlets whose demographics indicate that a large percentage of the subscriber base is single and in the relevant age range. Additionally, Petitioner markets his events on a person-to-person basis in areas where "Jewish Singles" are thought to congregate and at weekend retreats organized for singles. Finally, Petitioner markets his events to his own mailing list of "Jewish Singles" within the relevant age range that he has developed from previous events and through the various marketing strategies previously described. Engagements and marriages stemming from Petitioner's events are sometimes announced to those on Petitioner's mailing list.

Petitioner currently markets his "Netparty" to a mailing list of young professionals, within the relevant age range, that he has similarly developed as well as on a person-to-person basis. Petitioner further intends to market these events in many of the same "singles-oriented" publications and forums described above as well as on the Internet.

Petitioner's events are held in New York City locations that include restaurants, nightclubs, mansions, non-furnished party venues available for rental, and boats. Those interested in attending Petitioner's events pay only on a per-event-basis; there are no additional fees. The fee for each of

TSB-A-02(58)S
Sales Tax
December 12, 2002

Petitioner's Jewish Singles events is generally \$20 or \$25. The fee for each of Petitioner's "Netparty" events is generally \$8 or \$10.

The only revenue Petitioner receives is his fee. Petitioner never receives revenue from the sale of food or drink at his events. Beverages are available at Petitioner's events; the restaurant, nightclub, or other venue sells these separately. Food is generally not available at the events. However, when food is available it is either sold separately by the restaurant, nightclub or other venue, or provided by the restaurant, nightclub or other venue to Petitioner's customers free of charge. Entertainment (most often a disc jockey and occasionally a live band) is normally provided at Petitioner's events.

Petitioner has a few methods for providing a venue for his functions:

- 1) Petitioner guarantees a certain gross beverage revenue to the venue operator and agrees to make up any shortfall. Petitioner keeps his fee and may or may not be required to pay the operator anything.
- 2) Petitioner provides a gross revenue guarantee and also pays a rental fee to the operator. Petitioner keeps his fee and may or may not be required to pay the shortfall guarantee.
- 3) Petitioner does not provide any guarantees, or pay a rental fee. The operator keeps his revenue and Petitioner keeps his fee.

Applicable Law

Section 1105(c) of the Tax Law imposes sales tax upon the receipts from the sale of certain enumerated services.

Section 1105(f)(1) of the Tax Law imposes sales tax upon "Any admission charge where such admission charge is in excess of ten cents to or for the use of any place of amusement in the state."

Opinion

Petitioner organizes and markets two types of events for singles. The first type of event is denoted as a "Jewish singles" event and the second is called a "Netparty." The primary function of Petitioner's events is not to provide entertainment or amusement, but to facilitate dating by providing a forum for single individuals of the Jewish faith, and single professionals, within a specific age range to meet. Petitioner, in effect, provides a social networking service. Section 1105(c) of the Tax Law imposes sales tax only on receipts from the sale, except for resale, of certain enumerated services. The service provided by Petitioner is not included among such enumerated taxable

TSB-A-02(58)S
Sales Tax
December 12, 2002

services. Under the facts presented in this Advisory Opinion, and in view of the nature and function of Petitioner's events, petitioner is not charging individuals for entertainment or amusement. Accordingly, the fees charged by Petitioner to individuals for these events are not admission charges subject to sales tax under Section 1105(f)(1) of the Tax Law. Petitioner, therefore, is not required to collect sales tax on the fees charged to attend the events described in this Advisory Opinion.

DATED: December 12, 2002

/s/
Jonathan Pessen
Tax Regulations Specialist IV
Technical Services Division

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