

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

TSB-A-05(37)S
Sales Tax
October 25, 2005

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S040303A

On March 3, 2004, the Department of Taxation and Finance received a Petition for Advisory Opinion from Rotterdam Veterinary Hospital, 2806 Guilderland Avenue, Schenectady, NY 12306.

The issue raised by Petitioner, Rotterdam Veterinary Hospital, is whether nail clipping, grooming (shaving), and medicated baths performed by veterinarians and their professional staff are subject to State and local sales and use taxes.

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

Petitioner, a licensed veterinary hospital, performs nail clipping, grooming (shaving), and medicinal bathing on animals in association with care and services directly related to veterinary medical care. Some nail clippings are done because of an existing medical problem, such as infected pads due to overgrown nails into the pads of the animals' feet. Grooming (shaving) may be performed on an animal whose hair is matted and infested with ticks, fleas, etc. A "solution dip" is administered in conjunction with such grooming procedure. Medicinal baths are performed as a result of a medical condition; e.g., seborrhea, pyoderma, parasitic infestation, or allergic skin condition. Petitioner does not employ a groomer to perform any of these services. Veterinarians and their professional staff perform these services for Petitioner's customers.

Applicable law and regulations

Section 1105(c)(3) of the Tax Law imposes sales tax on the receipts from every sale, except for resale, of the service of "maintaining, servicing or repairing tangible personal property ... not held for sale in the regular course of business."

Section 1115(f) of the Tax Law provides, in part:

Services rendered by a veterinarian licensed and registered as required by the education law which constitute the practice of veterinary medicine as defined in said law, including hospitalization for which no separate boarding charge is made, shall not be subject to tax under paragraph (3) of subdivision (c) of section eleven hundred five, but the exemption allowed by this subdivision shall not apply to other services provided by a veterinarian to pets and other animals, including, but not limited to, boarding, grooming and clipping. . . .

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

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 528.24 of the Sales and Use Tax Regulations provides, in part:

(a) Exemption. (1) The exemption is allowed for services rendered by a licensed veterinarian which constitute the practice of veterinary medicine, including hospitalization for which no separate boarding charge is made.

(2) The exemption is not applicable to other services provided by a veterinarian, including but not limited to boarding, grooming and clipping.

(3) The exemption is allowed for articles of tangible personal property designed for use in some manner relating to domestic animals or poultry, when sold by such a licensed veterinarian.

(b) Definitions. (1) Practice of veterinary medicine. Section 6701 of the Education Law defines the practice of the profession of veterinary medicine as diagnosing, treating, operating or prescribing for any animal disease, pain, injury, deformity or physical condition. *Animal* includes every living creature except human beings.

(2) Use of title *veterinarian*. Section 6702 of the Education Law provides that only a person licensed or exempt under article 135 of the Education Law shall practice veterinary medicine or use the title *veterinarian*.

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(d) Taxable transactions. (1) Nonprofessional services performed by a veterinarian are subject to tax.

Example 1: Boarding, clipping and washing of pets are services which are subject to tax.

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(3) Veterinarians who carry on taxable activities are required to register as vendors, collect the tax and file returns.

Opinion

Petitioner is a licensed veterinary hospital that performs grooming (shaving), medicinal bathing, and nail clipping in conjunction with veterinary medical services. Section 1115(f) of the Tax Law provides an exemption from sales tax for services rendered by a veterinarian which constitute the practice of veterinary medicine. The exemption allowed by section 1115(f) does not apply to grooming, bathing, or nail clipping unless such services are performed as a necessary part of, and are directly related to, the veterinary medical service provided to the animal.

Grooming (shaving) an animal infested with fleas and ticks, in conjunction with a “solution dip,” is an exempt veterinary medical service. Medicinal baths given to treat a medical condition such as seborrhea, pyoderma, parasitic infestations, or allergic skin conditions, are also exempt veterinary medical services. Similarly, nail clippings performed to treat an existing medical condition, such as an ingrown claw, are exempt from sales tax. In these cases, the services are a necessary part of, and are directly related to, the veterinary medical service provided to the animal.

However, nonprofessional grooming, bathing and clipping services; i.e., services which do not constitute the practice of veterinary medicine, are taxable under section 1105(c)(3) of the Tax Law, regardless of whether such services are performed by a licensed veterinarian. Veterinarians who perform taxable services are required to register as vendors, collect sales tax and file returns. See section 528.24(d) of the Sales and Use Tax Regulations.

For purposes of Article 28 of the Tax Law, grooming, bathing and clipping services performed on animals are presumed to be taxable. The veterinarian has the burden of proving that such services qualify for exemption under section 1115(f) of the Tax Law, and maintaining the necessary records to substantiate that the services are exempt. See section 1132(c) of the Tax Law.

DATED: October 25, 2005

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