

New York State Department of Taxation and Finance
Office of Counsel
Advisory Opinion Unit

TSB-A-09(46)S
Sales Tax
October 9, 2009

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S090413B

On April 13, 2009, the Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED]. Petitioner asks whether its receipts pertaining to translation work are subject to sales and use tax. Petitioner's receipts for providing translation services are not subject to sales and use tax. However, charges by Petitioner for additional hard copies of a translated document will be subject to sales tax.

Facts

Petitioner is in the business of providing translation services. One service is the translation of documents into different languages. Petitioner receives from customers the documents to be translated in an electronic format by email or by upload software. Petitioner sends the translated version of the document to its customer electronically. Infrequently, customers will request that Petitioner "dress up" a translated document, which can include improving the layout of the document, adding colors or photographs to a document, or making other changes to a translated document so it is more visually appealing. This dress-up service is provided because a translated document may need to be altered to make translated words more visually appealing or to make the layout work. Petitioner bills a separate charge for dress up work.

Petitioner plans to offer real time speech translation services for parties communicating by telephone. Petitioner will charge customers on a per-minute basis to translate what is being said by the communicating parties. The customer will have to dial a 1-800 telephone number to access this service. Petitioner will not be providing the transmission link between the parties.

On some occasions, Petitioner is hired to provide a translator at the site of a meeting.

Analysis

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

Section 1105(c) of the Tax Law imposes sales tax on all receipts from the sale, except for resale, of certain specified services. Services which are not specifically described in the statute are not subject to sales tax.

Petitioner in translating documents is not providing its customers with information services for purposes of Tax Law sections 1105(c)(1) and 1105(c)(9). Since Petitioner does not provide the transmission link for telecommunications, it is not selling telephone and telegraph service for purposes of sales tax. In sum, Petitioner's translation services are professional services, which are not enumerated services subject to sales tax under Tax Law §1105(c). *Cf. Tannenbaum v State Tax Commission*, 46 A.D.2d 400, 362 NYS2d 608 (1975). This is true whether the translation services are oral or real time services, or the translated version of a document is sent to a customer electronically. Separate charges for performing dress-up work, as described above, are also not taxable. However, if Petitioner provides a customer with a hard copy

