

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

TSB-A-84(18)S
Sales Tax
May 21, 1984

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810320D

On March 20, 1981, a Petition for Advisory Opinion was received from Concept IV Computer Systems, P.O. Box 1290, Albany, New York 12201.

The issue raised is whether the services furnished by Concept IV Computer Systems (hereinafter "Petitioner") to the New York State Association of Realtors (hereinafter "NYSAR"), as described below, are subject to State and local sales taxes.

Petitioner operates a data processing center. NYSAR is a professional association whose membership is comprised of realtors, realtor-associates, realtor-affiliates and boards of realtors. Petitioner maintains a master list of NYSAR's membership. NYSAR provides Petitioner with information on additions, changes and deletions to the membership master list. Petitioner updates the membership master list accordingly. On a quarterly basis Petitioner supplies its customer with an up-dated membership list in printed form, along with an ancillary add/drop list indicating changes made during the quarter. Petitioner bills its customer on a monthly basis, its charge computed on the basis of specified charges for each addition, deletion or other change.

In determining the applicability of the sales tax to a given transaction or set of transactions, it is appropriate to "focus upon the complete package or item purchased." Cable TV v. Tax Comm. of NY, 88 M 2d 601, aff'd 59 AD 2d 81. Here the customer, NYSAR, subscribes to a series of updated membership lists which it uses as part of its dues assessment processes. While Petitioner must by the nature of the operation engage in certain data processing activities, the essence of the transaction is that NYSAR receives, for a consideration, certain printed materials. This constitutes a sale of tangible personal property at retail, the receipts from which are subject to the State sales tax imposed under section 1105(a) of the Tax Law, as well as all other State and locally imposed sales taxes. See Finserv Computer Corp v. Tully, 94 AD 2d 197, aff'd NY 2d . In that case Finserv reproduced the computerized records of its customers, provided on tape, onto microfiche or microfilm. Finserv asserted that its sales were of an information service exempt from tax under Tax Law, §1105(c)(1). The court found, however, that Finserv's service consisted primarily of "the rearranging or conversion of information from one format to another." That is, it did not sell to its customer information which that customer did not already have, nor did it analyze the information supplied by the customer so as to change the informational content of the computer tape supplied.

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In the present matter, similarly, Petitioner is supplied with information by its customer, in the form of lists of names to be added or deleted from the master membership list, and it renders to its customer not new information but, rather, merely the information supplied by the customer itself, embodied in a physically convenient format. The transfer of that embodiment, constituting tangible personal property, is a sale the proceeds of which are subject to tax.

DATED: April 26, 1984

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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