

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

TSB-A-88(6)S
Sales Tax
December 18, 1987

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S870915A

On September 15, 1987, a Petition for Advisory Opinion was received from Linda and Ralph Spaulding, 764 Seventh Avenue, Troy, New York, 12182.

The issue raised is whether Petitioners are required to collect sales tax on sales of a mail order kit designed to assist real property owners in challenging tax assessment increases.

Petitioners have prepared a "Taxbuster kit" to assist property owners in the City of Troy in contesting tax assessments. The kit includes: 1) an article, prepared by Petitioners summarizing the issues involved, entitled "Fighting Unfair Property Taxes" and three charts for the taxpayer to use in proving a case; 2) a guide to "Completing Your Grievance Form"; 3) a blank grievance form for the taxpayer to complete and bring to the Grievance Board, and 4) a copy of the book "How to Challenge Your Assessment." This book was written by the New York State Board of Equalization and Assessment.

Section 1105(a) of the Tax Law imposes a tax upon "[t]he receipts from every retail sale of tangible personal property." The "kit" in question includes guides, grievance forms and their instructions on how to file a grievance with the City of Troy. These are considered to be tangible personal property within the meaning of the statute. Accordingly, the sale of these items is subject to sales tax.

Section 1105(c)(1) of the Tax Law imposes a tax upon "the furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated into reports furnished to other persons by the person who has collected, compiled or analyzed such information, (see, 20 NYCRR §527.3).

Petitioners have gathered information about the past and present assessment practices in the City of Troy. They have examined this information and drawn their own conclusions as to its meaning. These findings are included within the "kit" to aid the residents of Troy in determining whether to contest their tax assessment. The fact that these "kits" are offered to the general public and not designed to aid a specified taxpayer clearly shows that the information is and may be furnished to other persons and that this service does not fit within the exclusion. Therefore, the Petitioners' compiling, collecting and analyzing of this information and subsequent sale constitutes the furnishing of a taxable information service within the meaning of section 1105(c)(1) of the Tax Law.

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Accordingly, the Petitioner must collect the appropriate sales tax on the entire selling price of the "Taxbuster kit."

DATED: December 18, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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