

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

TSB-A-91 (28)S
Sales Tax
March 18, 1991

STATE OF NEW YORK

COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S910103A

On January 3, 1991, a Petition for Advisory Opinion was received from People Resources, 119 West 57th Street, New York, New York 10019.

The issue raised by Petitioner, People Resources, is whether the receipts received from its members for the dating referral services it performs are subject to State and local sales and use tax as an information service pursuant to Section 1105(c)(1) of the Tax Law.

Petitioner is an organization for singles, but unlike typical matching services and or computerized dating services, the Petitioner provides a forum within which its members may choose other members whom they wish to meet. Petitioner does not, in any respect whatsoever, assist its members in making a decision as to the matching or referral process. Petitioner likens itself to that of a billboard upon which people place messages; similar to a personal column in a magazine section where people place advertising concerning themselves in the hope that some other individual will be interested so as to meet them. When an individual becomes a member he or she prepares, by themselves, a written biography indicating certain basic information about themselves. This information, as well as photographs and a video, comprises the member's profile and is placed in a library in which the members have free access to view the various profiles. The profiles are not categorized per se, but are separated by men, women and sexual preference. Members read the written biographics first, and, if interested, view the videos.

When a member is interested in meeting another member, he or she must issue an invitation card indicating that he or she would be interested in the other member's viewing their profile to see if mutual selection may be had. The invitor then leaves the invitation card at the front desk, where it is maintained. The other member peruses the invitor's profile and either declines the invitation or accepts it by completing it and setting forth their full name and phone number. The completed invitation is brought up to the front desk by the member. Upon receiving completed accepted invitations, the front desk personnel orally give out invitators' full names and phone numbers. Members typically call into the office and are advised on the telephone that invitations have been received or completed. In some instances, notices are forwarded through the mail to members advising them that they have invitations and that they should come in accordingly. Members may also telephone and obtain the full names and phone numbers of other members who have accepted their invitations.

Section 1105(c)(1) of the Tax Law imposes, sales tax upon the receipts from every sale, except for resale of the following:

The furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other matter, 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 in reports furnished to other persons. . . (Emphasis added)

Section 527.3 of the Sales and Use Tax Regulations provides, in part, as follows:

(a) Imposition

(1) Section 1105(c)(1) of the Tax Law imposes a tax on the receipts from the service of furnishing information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any manner such as by tapes, discs, electronic readouts or displays.

(2) The collection, compiling or analyzing information of any kind of nature and the furnishing reports thereof to other persons is an information service. (emphasis added)

Petitioner collects and compiles information through written biographies, photographs and videos, analyzes such matter to separate it as to men, women and sexual preference, and furnishes the information in printed form for perusal and viewing to its members through use of its library. Accordingly, Petitioner is providing an information service subject to sales tax pursuant to Section 1105(c)(1) of the Tax Law and Section 527.3(a) of the Sales and Use Tax Regulations. Therefore, receipts paid to Petitioner by its members for the services it performs are subject to sales tax.

DATED: March 18, 1991

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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