

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

TSB-A-92 (80) S
Sales Tax
November 13, 1992

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO.S920918A

On September 18, 1992, a Petition for Advisory Opinion was received from Maid in New York, Inc., 200 Park Avenue South, New York, New York 10003.

The issues raised by Petitioner, Maid in New York, Inc. are:

1. Whether charges by Petitioner for cleaning apartments are subject to sales tax.
2. Whether charges by Petitioner for doing clients' laundry are subject to sales tax.
3. Whether charges by Petitioner for reimbursement of the money spent to launder clients' clothes are subject to sales tax.
4. Whether charges by Petitioner for travel expenses are subject to sales tax.

Petitioner operates a for hire maid service in which maids are hired by customers to clean their apartments. Customers are billed a set amount for the labor to clean the apartments. In addition, Petitioner offers an optional service to customers for doing laundry. A set fee for doing laundry is charged by Petitioner, separate and distinct from any fee charged for cleaning the apartments. Customers are also billed for the money spent to operate the washing machines and dryers and expenses incurred for traveling to the apartments. A customer purchasing both services would receive a bill for the total charges, broken down as follows:

Labor	\$50.00
Laundry	\$10.00
Quarters for Machines	\$ 4.00
Travel	<u>\$ 2.50</u>
	\$66.50

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

* * *

(3) Installing tangible personal property, excluding a mobile home, or maintaining, servicing or repairing tangible personal property, including a mobile home, not held for sale in the regular course of business, whether or not the services

are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except:

* * *

(ii) any receipts from laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining; and

* * *

(5) Maintaining, servicing or repairing real property, property or land, as such terms are defined in the real property tax law, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property, property or land, by a capital improvement as such term capital improvement is defined in paragraph nine of subdivision (b) of section eleven hundred one of this chapter, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public. (emphasis added)

Section 1101(b)(3) of the Tax Law defines the term "receipts" to mean:

(3) Receipt. The amount of the sale price of any property and the charge for any service taxable under this article, valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts and also including any charges by the vendor to the purchaser for shipping or delivery regardless of whether such charges are separately stated in the written contract, if any, or on the bill rendered to such purchaser and regardless of whether such shipping or delivery is provided by such vendor or a third party, but excluding any credit for tangible personal property accepted in part payment and intended for resale and excluding the cost of transportation of tangible personal property sold at retail where such cost is separately stated in the written contract, if any, and on the bill rendered to the purchaser. For special rules governing computation of receipts, see section eleven hundred eleven. (emphasis added)

Section 526.5(e) of the Sales and Use Tax Regulations provides as follows:

(e) Expenses. All expenses, including telephone and telegraph and other service charges, incurred by a vendor in making a sale, regardless of their taxable status and regardless of whether they are billed to a customer are not deductible from the receipts.

Example 1: A photographer contracts with a customer to furnish photographs at \$50.00 each in addition to expenses. The customer is billed as follows:

Photographs (2)	\$100.00
Model fees	60.00
Meals	10.00
<u>Travel</u>	25.00
Props (Flowers)	<u>5.00</u>
Total Due	<u>\$200.00</u>

Receipt subject to tax is \$200.00

Example 2: An appliance repairman charges \$10.00 per hour plus expenses when on a service call. The customer is billed as follows:

3 Hrs. at \$10.00	\$ 30.00
<u>Travel</u>	15.00
Parts	20.00
Meals	<u>5.00</u>
Total Due\$ 70.00

Receipt subject to tax is \$70.00 (emphasis added)

Section 527.1(b) of the Sales and Use Tax Regulations provides that:

(b) Taxable and exempt items sold as a single unit. When tangible personal property, composed of taxable and exempt items is sold as a single unit, the tax shall be collected on the total price.

Example: A vendor sells a package containing assorted cheeses, a cheese board and a knife for \$15. He is required to collect tax on \$15.

Concerning issue "1", the interior cleaning and maintenance of apartments constitutes the maintaining and servicing of real property. Therefore, pursuant to Section 1105(c)(5) of the Tax Law, the receipts received by Petitioner for cleaning apartments is subject to sales tax.

With respect to issue "2", pursuant to Section 1105(c)(3)(ii) of the Tax Law the receipts from laundering clothing is not subject to sales tax. Accordingly, since such service is an optional service offered by Petitioner which can be purchased separately from the taxable service of cleaning the apartments, pursuant to Section 527.1(b) of the Sales and Use Tax Regulations Petitioner's charges for laundering clothing is not subject to sales tax.

As to issue "3", charges by Petitioner for reimbursement of money spent to launder clients' clothing is not subject to sales tax since it is expense incurred in performing a service which is not subject to sales tax pursuant to Section 1105(c)(3)(ii) of the Tax Law.

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Regarding issue "4", since the travel expenses incurred by Petitioner cannot be segregated as to the amount of expenses incurred for the taxable maid service and the amount incurred for the non-taxable laundering service, pursuant to Section 526.5(e) of the Sales and Use Tax Regulations the entire travel expense is subject to sales tax.

DATED: November 13, 1992

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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