

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

TSB-A-95 (1)S
Sales Tax
January 5, 1995

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S940321A

On March 21, 1994, a Petition for Advisory Opinion was received from D.L. Peterson Trust, 307 International Circle, Hunt Valley, MD 21030.

The issue raised by Petitioner, D.L. Peterson Trust, is whether charges for an optional management service which is separately stated from other charges in its multi-state vehicle management business operations are subject to New York State and local sales and use taxes.

Petitioner is a legal entity organized in the State of Maryland. Petitioner's activities include the leasing of motor vehicles to a variety of corporate and individual clients. The kinds of motor vehicles leased by Petitioner are automobiles, light-duty trucks, medium-duty trucks, heavy-duty trucks, tractors, and tractor-trailers. Petitioner leases vehicles to manufacturers, service and sales based companies and individuals across the United States.

As part of Petitioner's vehicle leasing activities, Petitioner provides services supporting the management of vehicle operations. These services include the analysis of the client's cost to manage the fleet, increasing fleet productivity, and managing such driver activities as registration, inspection and vehicle maintenance. Moreover, the management service includes the providing of consultation and recommendation for new vehicle acquisition and used vehicle marketing services. Petitioner's management service is an optional service which may be purchased by customers separately from the leasing of vehicles and the charge is separately stated on invoices from other charges to customers.

Section 1105(c) of the Tax Law imposes tax upon the receipts from every sale, except for resale, of certain enumerated services. The providing by Petitioner of management services is not one of the services enumerated under Section 1105(c) of the Tax Law and, therefore, such service is not subject to sales and use taxes.

In Certified Properties, Inc., Adv Op Comm T&F, May 17, 1991, TSB-A-91(43)S the Commissioner held that where the petitioner billed its management services separately from its purchasing, cleaning, repair and maintenance services, only that portion of the bill that represented the taxable services were subject to sales and use taxes. However, if the petitioner were to charge a single price for all its services or such services could only be purchased as a single unit and not independent from each other than the entire charge for such services would be subject to sales and use taxes.

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In the instant case, Petitioner provides services supporting the management of vehicle operations. These services include the analysis of the client's cost to manage the fleet, increasing fleet productivity, and managing such driver activities as registration, inspection and vehicle maintenance. Moreover, the management service includes the providing of consultation and recommendation for new vehicle acquisition and used vehicle marketing services. Petitioner is not a buying service. Petitioner's management service is an optional service which may be purchased by customers separately from the leasing of vehicles and the charge is separated stated on invoices from other charges to customers. Accordingly, pursuant to Section 1105(c) of the Tax Law and Certified Properties, Inc., *supra*, provided such management services are purchased independently from other services offered by Petitioner and charges for such services are separately stated from charges of other services offered by Petitioner, Petitioner's charges for its vehicle management services are not subject to New York State and local sales and use taxes.

DATED: January 5, 1995

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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