

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

TSB-A-97(87)S  
Sales Tax

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S971023A

On October 23, 1997, the Department of Taxation and Finance received a Petition for Advisory Opinion from CAV CORP d/b/a Stone Soup Multimedia, 936 Broadway 4th Floor, New York, NY 10010. Petitioner, CAV CORP d/b/a Stone Soup Multimedia, provided additional information pertaining to the Petition on October 24, 1997 and November 4, 1997.

The issues raised by Petitioner concern the applicability of sales and compensating use taxes to its charges for design, development and placement of Web pages for the Internet. Specifically, Petitioner inquires:

(1) Whether charges by Petitioner to its clients for Domain Registration and InterNIC Registration are subject to sales tax.

(2) Whether charges by Petitioner to its clients for host site maintenance fees are subject to sales tax when such charges are billed to Petitioner and passed through to its clients.

(3) Whether charges to Petitioner by programmers and designers for working on Web site development are subject to use tax.

(4) Whether charges by Petitioner to its clients for creating interactive games for such client's Web pages on the Internet are subject to sales tax.

(5) Whether charges to Petitioner by programmers and designers for work on interactive games for Petitioner's client's on the Internet are subject to use tax.

Petitioner submits the following facts as the basis for this Advisory Opinion.

Petitioner is a "presence provider." That is, Petitioner designs and develops Web pages for its clients and electronically publishes the data. Once the Web pages are created, Petitioner pays a fee for the domain name and InterNIC registration, assignment and maintenance of the Internet address. Petitioner also pays a host site maintenance fee to keep the site at a certain location on the Internet. Petitioner passes these fees through to its clients when it bills them.

Petitioner receives bills from programmers and designers for work on Web sites as well as for work on interactive games which become part of Petitioner's client's Web page.

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Petitioner does not make any sales, or other transfers, of tangible personal property to its clients as part of its Web page development services. Petitioner does not purchase or sell pre-written software as part of these services. Petitioner's interactive games are designed specifically for each client's Web page.

Opinion

Petitioner's Web page development service provided to its clients, which involves designing, programming and placing of Web sites on the World Wide Web, is not included among the enumerated services that are subject to New York State and local sales and compensating use taxes. (See, Ski Soft, Inc., Adv Op Comm T&F, June 25, 1997, TSB-A-97(35)S.) Accordingly, Petitioner's charges for the sale of its Web site development service described in issues (1), (2) and (4) are not subject to sales and compensating use tax. Petitioner's purchase of programming and design services for Web site development and design of interactive games described in issues (3) and (5), which are designed specifically for each client, are not among the enumerated services subject to use tax pursuant to Section 1110 of the Tax Law.

/s/

DATED: December 29, 1997

John W. Bartlett  
Deputy Director  
Technical Services Bureau

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