

TAXABLE STATUS OF CERTAIN INFORMATIONAL REPORTS

RENDERED TO INSURANCE COMPANIES

The following memorandum reflects a change in the policy of the Department of Taxation and Finance regarding the taxable status of certain informational reports rendered to insurance companies on the risk desirability of applicants for insurance coverage.

These reports usually consist of information relative to the applicant's employment, financial standing, financial worth, recreational activities, health, and habits, and are based on information obtained principally from interviewing the applicant, and sometimes his employer and neighbor. In compliance with the Federal Fair Credit Reporting Act, the applicant is always notified in advance that he will be the subject of an inquiry.

Prior to the State Tax Commission decision in the matters of Metropolitan Life Insurance Company, and Mutual Life Insurance Company of New York, these reports were deemed to be detective services. As a result of this decision, however, these reports are no longer considered detective services subject to the 4% sales tax imposed in New York City under section 1212-A of the Tax Law.

Services which provide reports containing such information on insurance applicants for the purpose of assisting a prospective insurer in evaluating the risks associated with a particular policy are deemed to be information services which are personal or individual in nature and which are not or may not be substantially incorporated in reports furnished to other persons (section 1105(c)(1)).

Accordingly, the next to last question and answer on page 10 of Publication 846, New York State and Local Sales Tax Information on Selected Services in New York City, should read as follows:

- Q. Is the service of inspection and appraisal rendered to an insurance company, for purposes of determining the risk desirability of an applicant for insurance coverage, subject to the 4% sales tax imposed by New York City?
- A. No, this is not a detective service. It is an information service which is private and individual in nature and, therefore, not subject to sales tax.

The policy change stated in this memorandum is effective retroactively.