

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Taxpayer Guidance Division

TSB-A-08(17)S
Sales Tax
March 19, 2008

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S071126B

On November 26, 2007, the Department of Taxation and Finance received a Petition for Advisory Opinion from Robo Enterprises, Inc., 1310 East Second Street, P.O. Box 940, Jamestown, NY, 14702-0940.

The issue raised by Petitioner, Robo Enterprises, Inc., is whether receipts from a coin-operated dog washing machine are subject to sales tax.

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

Petitioner has recently constructed a laundromat facility located in Jamestown, NY. Part of the facility consists of a coin-operated dog washing machine with an attached tub. A customer wishing to use the dog washing machine would bring in the dog, place it in a tub basin and tether the animal. The customer would insert the appropriate amount of money into the machine. The customer would then proceed to wash and dry the dog. There is no assistance or intervention in the process on the part of any of Petitioner's employees. A recent news article from *The Post-Journal* of Jamestown described Petitioner's dog washing facility as follows:

When you enter the dogwash center, the exhaust fan immediately turns on. Then you can walk Snoopy up the ramp into the sink basin. Put \$5 in the slot (for 8 minutes of wash time), [and] choose which of the several settings you would like to start with.

The sink is waist-high so you aren't bending over as is customary when washing a dog in the bathtub. Once you've rinsed your pet, switch the knob once more to take advantage of the blow dryer. Ideally, you will have a clean and dry dog when you walk out with no mess at home to clean up.¹

Applicable law and regulations

Section 1105 of the Tax Law provides, in part, that the sales tax is imposed upon:

(c) 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, . . .

¹ Rizzuto, *Jamestown Business Diversifies Offerings*, *The Post-Journal*, January 3, 2008

Section 526.8(a) of the Sales and Use Tax Regulations (Regulations) provides, in part:

Definition. The term *tangible personal property* means corporeal personal property of any nature having a material existence and perceptibility to the human senses. Tangible personal property includes, without limitation:

* * *

(4) *Animals*, trees, shrubs, plants and seeds; (emphasis added)

Section 527.5(a)(3) of the Regulations provides, in part:

Maintaining, servicing and repairing are terms used to cover all activities that relate to keeping tangible personal property in a condition of fitness, efficiency, readiness or safety or restoring it to such condition.

Opinion

Petitioner's newly constructed laundromat facility is also equipped with a coin-operated dog washing machine. Customers use the dog washing machine to wash and dry their dogs without the assistance of any of Petitioner's employees. Pursuant to section 526.8(a)(4) of the Regulations, dogs are considered to be tangible personal property for purposes of the sales tax. Washing a dog using a coin-operated machine qualifies as maintaining tangible personal property under section 1105(c)(3) of the Tax Law and section 527.5(a) of the Regulations as such action helps keep the dog in a condition of fitness. Therefore, the receipts from Petitioner's coin-operated dog washing machine are subject to sales tax under section 1105(c)(3).

DATED: March 19, 2008

/s/
Jonathan Pessen
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Taxpayer Guidance Division

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion.