

**New York State Department of Taxation and Finance  
Office of Counsel  
Advisory Opinion Unit**

TSB-A-11(22)S  
Sales Tax  
August 3, 2011

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO S110601A

Petitioner [REDACTED], asks whether receipts from sales of patent drawings delivered electronically to its patent attorney customers are subject to sales tax. We conclude that the receipts from the electronic drawings are not subject to sales tax.

**Facts**

Petitioner is a patent draftsman whose primary service is to create formal drawings for sale to patent attorneys. The drawings are delivered electronically as PDF files attached to emails. The attorney customers subsequently submit the drawings electronically to the United States and foreign patent offices with applications for patents for their clients.

**Analysis**

The Tax Law imposes sales tax on the receipts from every retail sale of tangible personal property, except as specifically excluded. [Tax Law § 1105(a), 20 NYCRR § 526.6(a)] A retail sale is defined as a sale of tangible personal property to any person for any purpose.... [Tax Law § 1101(b)(4)(i)] Tangible personal property is defined as corporeal personal property of any nature having a material existence and perceptibility to the human senses. It includes artistic items, such as sketches, paintings, photographs, moving picture films, and recordings. [Tax Law § 1101(b)(6), 20 NYCRR § 526.8(a)]

In a previous opinion regarding patent drawings, [TSB-A-97(48)S], the facts presented were identical to the facts in this petition, except that the drawings were delivered to Petitioner's attorney customers by mail as paper-print outs, and not electronically as PDF files. The prior opinion held that Petitioner's formal drawings to its attorney customers constituted tangible personal property and receipts from Petitioner's sale of the drawings were subject to sales tax.

In this opinion, the drawings are furnished to Petitioner's attorney customers by electronic means as PDF files. Therefore it must be determined if the sale of electronic drawings to Petitioner's customers are tangible personal property within the meaning of the Tax Law. Where drawings are delivered solely electronically with no tangible format, the receipts from the sales of those drawings are not receipts from the sale of corporeal

personal property [TSB-A-09(20)S]. Therefore, the receipts are not from the sale of tangible personal property and are not subject to sales tax.

DATED: August 3, 2011

/S/  
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DEBORAH LIEBMAN  
Deputy Counsel

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.