

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

TSB-A-15(12)S  
Sales Tax  
March 17, 2015

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S131031A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] “Petitioner”. Petitioner asks whether the service of changing the format of electronic data and transferring the reformatted data to third parties that market the information is subject to sales tax, and whether a vendor selling mailing list information in an electronic format must collect sales tax from its customer if the customer resells the information.

We conclude that the combined service of reformatting electronic data and transferring the reformatted data to third parties is not subject to sales tax. A vendor in the business of selling mailing list information must collect sales tax on all New York sales of the information unless the sale is for resale. Because all sales of taxable information services are presumed subject to sales tax, an information service vendor should obtain a resale certificate from any customer that purports to resell the information.

**Facts**

Petitioner presents two different scenarios. Petitioner hires company T to reformat Petitioner’s mailing list information stored in electronic media to a format that makes the information more marketable on on-line marketplaces and then to transmit the reformatted data to a company that sells mailing list information on behalf of Petitioner.

In the other scenario, company V, which is in the business of selling mailing list information, sells mailing list information to Petitioner, which combines this information with its own mailing list information and then resells the aggregated information to end users.

**Analysis**

The service of merely reformatting electronic data is not a service subject to sales tax. *Compare* TSB-A-10(20)S. Nor does the service become subject to sales tax under Tax Law § 1105(b)(1) as a telephony and telegraphy service if the vendor transmits the reformatted data to a third party. *See* TSB-A-97(86)S; *see also* TSB-A-08(39)S. Therefore, the service provided by company T to Petitioner is not subject to sales tax.

The on-line sale of information is subject to sales tax under Tax Law §1105(c)(9). The sale of mailing lists by a person in the business of selling such lists constitutes an information service. *See Alan Drey Company, Inc. v. State Tax Commission*, 67 AD2d 1055 (3d Dep't 1979). Thus, company V is selling a taxable information service. The sale of a taxable information service is not a retail sale subject to sales and use tax if the purchaser will resell the information as such or as part of a taxable information service. 20 NYCRR § 527.3(c)(3). Petitioner is reselling the information it purchases from company V as part of a taxable information service. Therefore, Petitioner may provide company V with a resale certificate (Form ST-120).

DATED: March 17, 2015

/S/  
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DEBORAH R. 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. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.