

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

TSB-A-15(27)S  
Sales Tax  
July 10, 2015

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S110311A

The Department of Taxation and Finance received a Petition for an Advisory Opinion from [REDACTED] (“Petitioner”). Petitioner asks whether its lighting and design services for interior and exterior lighting systems for commercial and residential properties are subject to New York State and local sales taxes. We conclude that Petitioner’s lighting design services are subject to state and local sales taxes.

**Facts**

Petitioner is in the business of providing lighting design services for residential and commercial projects for new construction and renovation. Petitioner performs its work under the supervision of third-party licensed architects and engineers who review and incorporate Petitioner’s work into their own certified drawings. The systems Petitioner designs are permanently installed and designed to meet code requirements for levels of illumination, power consumption and control. Petitioner communicates this information to the architect by way layouts and specifications. The lighting controls and fixtures designed by Petitioner are “hard wired” to the underlying structure. Management of energy in the design is a requirement of the New York State Energy Conservation Construction Code, which, together with the New York State Building Code, establishes the required light levels. Compliance with these codes, as they relate to the lighting systems, is a prerequisite to the issuance of a Certificate of Occupancy. These two codes also define the requirements for the “safeguarding of life, health, property and public welfare.”

Petitioner also performs project management, budgeting, model making (at the request of the architect or client) and energy analysis. Petitioner does not charge separately for these extra services. They are part of the design service that Petitioner provides.

**Analysis**

Tax Law § 1105(c)(7) imposes sales tax on receipts from the sale, except for resale, of interior decorating and designing services (whether or not in conjunction with the sale of tangible personal property), by whomsoever performed, including interior decorators and designers, architects or engineers. Such services shall not include services that consist of the practice of architecture, as defined in Education Law § 7301, or the practice of engineering, as defined in Education Law §7201, if the services are performed by a licensed architect or engineer.

Petitioner’s interior lighting design services constitute interior decorating and design services subject to tax under Tax Law § 1105(c)(7). Petitioner’s receipts from the sale of these services are subject to sales tax, regardless of whether they are sold to building owners who hire

an architect or engineer separately, or sold directly to an architect or engineer. The incorporation of Petitioner's design work into the design prepared by an architect or engineer does not affect the taxability of Petitioner's service (*See* TSB-M-10(5)S and TB-ST-400). Nor does the fact that the interior designer's services may be supervised by an architect or engineer affect the taxability of those services.

Exterior lighting design services are not subject to sales tax because they are not within the ambit of Tax Law § 1105(c)(7). If Petitioner performs interior and exterior lighting services for a single charge, the entire charge will be subject to sales tax. *See* TSB-A-14(30)S. However, if Petitioner separately states the charges for interior and exterior lighting design services, and the charge for the exterior design services is reasonable in relation to the overall charge, the charge will not be subject to sales tax. *See* TSB-A-97(44)S.

The local sales tax imposed by New York City does not apply to interior decorating and design services. If Petitioner's services are delivered in New York City, they will be subject to New York State sales tax, including the tax imposed on behalf of the Metropolitan Commuter Transportation District. However, they are not subject to the local sales tax imposed by New York City pursuant to the authority of Article 29 of the Tax Law. *See* Tax Law § 1210(a)(4)(iv); TSB-M-95(13)S.

DATED: July 10, 2015

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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.