

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-84(20)S
Sales Tax
July 20, 1984

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S820913A

On September 13, 1982 a Petition for Advisory Opinion was received from Philip M. Sherman, 471 Claybourne Road, Rochester, New York 14618.

The issue raised is whether the services to be provided by Petitioner's company (Sherman Data Finances, a sole proprietorship) will be subject to sales tax.

The services to be offered by Petitioner's company will be in the form of computer-generated financial information. Each of the individual printouts generated by the computer for a particular client will be prepared by applying a program in the computer to information provided by the client. In the case of a loan, for example, the client would provide the amount of the principal of the loan, its interest rate and its term. The application of the appropriate computer program to the information supplied by the client would enable Petitioner to provide such client with a printout showing the principal and interest paid or to be included in each monthly loan payment. Petitioner will offer a variety of such computer-generated results, each calculated in the same general manner. In each instance, the computer printout will be the result of the application of a computer program to data supplied by a client.

Section 1105(c) of the Tax Law imposes a tax on: "The receipts from every sale, except for resale, of the following services: (1) The furnishing of information by printed matter . . . , including the services of . . . analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons "

The information provided in the reports sold by Petitioner is prepared in a customized format, according to the customer's specifications, and is thus "personal or individual in nature," thereby satisfying the first of the two criteria for exclusion from the operation of section 1105(c)(1) of the Tax Law. Opinion of Counsel, 1965 NYTB-3, p. 24; Opinion of Counsel, 1965 NYTB-4, p.48; Rich Products, State Tax Commission Advisory Opinion, TSB-A-83(19)S. The second criterion is that the information "is not or may not be substantially incorporated in reports furnished to other persons." Petitioner has failed to cite any extant prohibition against such use of the information, whether contractual, statutory or customary. It therefore remains to be determined whether the information "is not" so used. This criterion is satisfied if (a) the information has not previously been so used, and (b) at the time of the rendering of the report in question it could not reasonably have

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been anticipated that the information would be so used. State Tax Commission Declaratory Ruling 79-01, TSB-H-80(97)S; Roger S. Farber, State Tax Commission Advisory Opinion, December 17, 1981, TSB-A-82(3)S; New York Life Insurance Co. v. State Tax Commission, 80 AD 2d 675, aff'd (no op) 55 NY 2d 760 (1982); Rich Products, supra. In the present instance, because of the nature of the information described herein by Petitioner, it is fair to say that it is reasonably likely that the information given to one customer will be substantially included in reports sold to others. This conclusion is given support, for example, by the existence of loan amortization tables commonly held for sale in stationery stores. See also Roger S. Farber, supra. Accordingly, receipts from the sale of the service described by Petitioner would be subject to tax. Other services which may be provided by Petitioner are not ruled upon herein.

DATED: July 2, 1984

s/FRANK J. PUCCIA
Director
Technical Services Bureau