

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

TSB-A-88(22)S
Sales Tax
March 2, 1988

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S870901A

On September 1, 1987, a Petition for Advisory Opinion was received from R.H. McDermott Corp., 421 Seventh Avenue, New York, N.Y. 10001.

The issue raised is whether the rendering of technical advice by the Petitioner, a licensed professional engineer, is a service subject to sales tax.

Petitioner is engaged, usually by other engineering firms, to evaluate existing air conditioning systems and to make recommendations for redesigning and upgrading the installation to meet the needs of a new tenant.

Petitioner states it does not sell tangible property, such as architectural models, and its recommendations are given only to the engineer/client who retains its services as the only person qualified to interpret the data in the report.

The Tax Law imposes sales tax on every retail sale, except for resale, of tangible personal property (§1105[a]) and of certain enumerated services (§1105[c]).

The furnishing of technical advice by a licensed professional engineer is not deemed to be the sale of tangible personal property or the sale of an enumerated service even if a written report is furnished as an incident to the engineering service being performed. Such a professional service is outside the scope of the sales tax.

Accordingly, the rendering of technical advice by a licensed professional engineer is not subject to sales or use tax.

It must be emphasized that this ruling is limited to the tax status of reports and documents (e.g., evaluations, specifications, plans and designs) which, being based upon the principles of mathematics and the physical sciences, may legally be rendered only by licensed professional engineers. Opinion of Counsel, 1966 NYTB-2, p. 58.

The Sales and Use Tax Regulations provide that tangible personal property purchased for use in performing a service not subject to tax is not purchased for resale. (20 NYCRR 526.6[c][7]). Accordingly, Petitioner's purchases of supplies or materials used or consumed in performing professional consulting services are subject to State and local sales and use tax.

DATED: March 2, 1988

s/FRANK J. PUCCIA
Director
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth therein.