

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

TSB-A-90(36)S
Sales Tax
July 24, 1990

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S900608A

On June 8, 1990 a Petition for Advisory Opinion was received from Alfred University, Post Office Box 845, Alfred, New York 14802.

The issue raised by Petitioner, Alfred University, is whether it is required to collect sales tax on billings related to student telephone lines, long distance authorization and usage.

Petitioner is an educational organization not subject to sales tax on its sales or purchases pursuant to Section 1116(a)(4) of the Tax Law. It began operations of a telephone system in the summer of 1988, and since this time has been operating the system as a service to students. The related switch was purchased, and exemption certificates have been provided on this preliminary transaction as well as on the continuing services of the provider. Petitioner has been billing students monthly for the line, long distance authorization, and usage. In addition, Petitioner is considering billing on a semester basis for the line and long distance authorization.

Section 1116(a)(4) of the Tax Law provides that:

(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article: . . .

(4) Any corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for... educational purposes,... no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, (except as otherwise provided in subsection (h) of section five hundred one of the United States internal revenue code of nineteen hundred fifty-four, as amended), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

Section 529.7(i)(1) of the Sales and Use Tax Regulations provides that:

"Except as provided in paragraphs (2) through (4) of this subdivision, sales of tangible personal property and services by exempt organizations are exempt from the sales and use tax."

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The sales of telephone services is not one of the exceptions to the exemption as provided for in Section 1116(b) of the Tax Law or Sections 529.7(i)(2), (3) and (4) of the Sales and Use Tax Regulations. Therefore Petitioner, an exempt organization pursuant to Section 1116(a)(4) of the Tax Law, is not required to collect sales tax on charges by it to students for telephone lines, long distance authorization and usage.

DATED: July 24, 1990

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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