

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

TSB-A-92 (17)S  
Sales Tax  
February 27, 1992

STATE OF NEW YORK

COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S911211A

On December 11, 1991, a Petition for Advisory Opinion was received from Central National Bank, Canajoharie, 24 Church Street, Canajoharie, New York 13317.

The issues raised by Petitioner, Central National Bank, Canajoharie, are:

1. Whether Petitioner must collect sales tax on the sale of repossessed automobiles.
2. Whether repairs on repossessed mobile homes to put them in salable condition are subject to sales tax.
3. Whether credit information requested concerning loan applicants is subject to sales tax.

Petitioner, on occasion, repossesses and sells financed automobiles to individuals. In addition, Petitioner repossesses and sells mobile homes. On some of the mobile homes, repairs must be done to put them in a salable condition. Further, Petitioner requests credit data on loan applicants. This data is the same type of credit data requested by attorneys who do loan closings.

Section 1105(a) of the Tax Law imposes sales tax on the receipts from every retail sale of tangible personal property, with certain exceptions.

Technical Services Bureau Memorandum TSB-M-80(11)S, September 30, 1980, provides, in part, that:

Banks and car rental agencies which sell repossessed motor vehicles qualify as vendors of motor vehicles for sales and use tax purposes. Any "vendor" must collect the appropriate tax at the time a sale takes place, unless he accepts a properly completed exemption document.

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The program instituted by the Department of Motor Vehicles to insure that proper tax is remitted on motor vehicle transactions (that is, to collect the sales tax at the time of registration) does not apply to vendors. This program applies only to casual sales where the seller is neither an automobile dealer nor a vendor registered for any other purpose. Banks, or any other registered vendor, dealing in repossessed motor vehicles must collect tax on every transaction which is not exempted by proper documentation.

Note: The same vendor responsibilities apply when banks repossess tangible personal property other than motor vehicles.

Section 1105(c) of the Tax Law imposes sales tax on:

(c) The receipts from every sale, except for resale, of the following services:

(1) The furnishing of information by printed, mimeographed or multigraphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or 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, and excluding the services of advertising or other agents, or other persons acting in a representative capacity, and information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news.

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(3) Installing tangible personal property, excluding a mobile home, or maintaining, servicing or repairing tangible personal property, including a mobile home, not held for sale in the regular course of business, whether or not the services are performed directly or by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction therewith, except: . . .(emphasis added)

Section 527.3(a)(4) of the Sales and Use Tax Regulations provides that:

(4) Charges for credit information services, other than those that are transmitted orally, are subject to tax. The following rules shall apply in determining taxability of services that include both oral and written reports.

(i) Any fee for a written report is taxable.

(ii) Any fee for an oral report is taxable if the oral report is preliminary to the written report.

(iii) An annual fee for subscribing to a service is taxable if it entitles the subscriber to a certain number of free reports, or to reduced charges on reports, unless the subscriber is entitled only to oral reports.

Accordingly, as to issue "1", pursuant to Section 1105(a) of the Tax Law and TSB-M-80(11)S, supra, Petitioner qualifies as a vendor of motor vehicles for sales tax purposes and must collect the appropriate sales tax at the time a sale takes place, unless it receives a properly completed exemption document.

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Concerning issue "2", pursuant to Section 1105(c)(3) of the Tax Law charges incurred by Petitioner for the repair of repossessed mobile homes that are held for resale are not subject to sales and use taxes.

With respect to issue "3", pursuant to Section 1105(c)(1) of the Tax Law and Section 527.3(a)(4) of the Sales and Use Tax Regulations charges incurred by Petitioner for credit information services, other than such services that are transmitted solely orally, are subject to sales and use taxes.

DATED: February 27, 1992

s/PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

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