

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

TSB-A-92 (1)S  
Sales Tax  
January 3, 1992

STATE OF NEW YORK

COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S911112A

On November 12, 1991, a Petition for Advisory Opinion was received from One Call Systems, Inc., Three Allegheny Center, Pittsburgh, PA 15212.

The issue raised by Petitioner, One Call Systems, Inc., is whether the providing of a toll-free 800 telephone service for One Call User's Council, Inc. is subject to New York State and local sales and use tax.

Petitioner operates a call center in New York City whereby contractors, utilities, and the general public may call its toll-free 800 telephone service number to report their intent to disturb the earth. This message is transmitted by the Petitioner to the member utilities who have underground facilities located in the area of the dig. The utilities then inform the caller of underground line locations based on the utilities research maps and records of facilities. The utilities may also stake out the location of underground lines prior to the dig. The telephone service is purchased by One Call User's Council, Inc., a New York not-for-profit corporation owned by member utility companies. The purpose of the service is to prevent damage to underground utilities and harm to the public and property from excavating in areas where underground facilities are located.

Section 1105(b) of the Tax Law as last amended by Ch. 166, Laws 1991, effective September 1, 1991 imposes sales tax upon "The receipts. . .from every sale, other than sales for resale, of a telephone answering service."

Section 1101(b)(13) of the Tax Law as added by Ch. 166, Laws 1991, effective September 1, 1991 defines a telephone answering service as "A service that consists of taking messages by telephone and transmitting such messages to the purchaser of the service or at the purchaser's direction, but not including such service if it is merely an incidental element of a different or other service purchased by the customer."

Petitioner's activities consisting of receiving telephone calls from contractors, utilities and the general public to report their intent to disturb the earth and the transmission of the messages at the direction of the purchaser to the member utilities who fund One Call User's Council, Inc. come within the definition of a telephone answering service as defined in Section 1101(b)(13) of the Tax Law. This service is not merely an incidental element of a different or other service purchased by One Call User's Council, Inc. on behalf of the member utilities from the Petitioner, since the

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answering service as heretofore described is the sole service provided by the Petitioner. Therefore the receipts received by Petitioner from One Call User's Council, Inc. are subject to the imposition of State and local sales tax pursuant to Section 1105(b) of the Tax Law.

DATED: January 3, 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.