

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

TSB-A-93 (18)S
Sales Tax
March 22, 1993

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S920922A

On September 22, 1992 a Petition for Advisory Opinion was received from CyCare Systems, Inc., 7001 N. Scottsdale Road, Suite 1000, Scottsdale, AZ 85283.

The issue raised by Petitioner, CyCare Systems, Inc., is whether its charges for data processing services and microfiche processing services are subject to sales tax.

Petitioner receives data from clients, via modem or magnetic tape. Based on the data received, Petitioner produces statements, claims or letters which Petitioner mails or transmits to clients' medical patients, insurance carriers, credit union members and credit card holders.

Also, based on the data received, Petitioner generates accounts receivable reports, aged trial balances, and other recordkeeping reports which are submitted to the appropriate clients.

Petitioner also converts client information which is stored on magnetic tape to film. Petitioner retains the resulting microfiche masters and forwards copies of the masters to the clients. Petitioner collects New York sales tax on the charges for the copies and remits the sales tax collected on the applicable sales tax returns. Because of client confidentiality, Petitioner is prohibited from incorporating this information into reports for outside parties.

Section 1105(a) of the Tax Law imposes tax on "[t]he receipts from every retail sale of tangible personal property, except as otherwise provided in this article."

Section 1105(c) of the Tax Law imposes sales tax on all receipts from the sale, except for resale, of certain specified services. Services which are not specifically described in the statute are not subject to sales tax.

Section 1105(c)(1) of the Tax Law imposes a sales tax on the receipts from every sale, except for resale, of the service of "[t]he 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 ...".

Section 527.3(b)(2), Example 3 of the New York State Sales and Use Tax Regulations explains that the preparation of payrolls for customers by computer service companies is not a taxable information service as payrolls are considered to be personal and individual in nature and the information contained in a payroll may not be furnished to other parties.

The exclusion from the tax provided under Section 1105(c)(1) of the Tax Law also applies to the preparation of accounting reports, accounts receivable, accounts payable, tax reports, etc. (see pg. 4 of the New York State Department of Taxation and Finance Technical Services Bureau Bulletin, Computers, 1978-1(S)).

New York State Department of Taxation and Finance Technical Services Bureau Bulletin Computers, 1978-1(S), page 3 also states:

5. Data Processing Services - Information Services -
Information services are commonly provided by data processing centers. An information service may consist of a data processing company using its own facilities to process customer data to produce information. The data may be provided to the data processing company in source document form, as machine readable media, or entered directly into the company's computer facilities via devices located at the customer's premises. Output may be in the form of reports on paper or other media, or may be the transmitted electronically to the customer's site.
Information services are subject to tax (section 1105(c)(1)), unless the information output (paper or other media) is:
 - (1) personal or individual in nature to the recipient, and
 - (2) the data processing company cannot or may not incorporate a substantial portion of the same information in reports which it furnishes to other persons.

Accordingly, Petitioner's charges to clients for data processing services which pertain to the preparation of accounts receivable reports, aged trial balances, customer account statements, and medical insurance claim forms for submission to an insurance carrier are all considered to be personal or individual in nature and will qualify for the exclusion from tax provided under Section 1105(c)(1) of the Tax Law provided the information contained therein is not incorporated into reports furnished to other parties and provided that the service rendered by Petitioner requires collecting, compiling or analyzing the data submitted by the client. If Petitioner merely converts data received on magnetic tape to written form and/or prints personalized or non-personalized form letters from such data than the charges to the client for such activities will be subject to sales tax.

When Petitioner performs a microfiche conversion service for a client whereby information already in the client's possession is transferred from magnetic tape to film, Petitioner is merely converting the information from one form or medium to another without interpreting or recasting it, so that the form of information changes but not the intelligence contained therein and is not

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considered to be performing an information service (Finserv Computer Corp. v. Tully, 463 NYS 2d 923, affd 61 NY2d 947). Since Petitioner supplies the client with a copy of the microfiche master, Petitioner's total charge to the client for the conversion is considered to be a charge for the sale of tangible personal property and is subject to the tax imposed under Section 1105(a) of the Tax Law.

DATED: March 22, 1993

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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