

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

TSB-A-97(35)S
Sales Tax

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S970303A

On March 3, 1997, the Department of Taxation and Finance received a Petition for Advisory Opinion from Ski Soft, Inc., d/b/a Ski Areas of New York Internet Publishing Services, 2144 Currie Road, Tully, New York 13159. Petitioner, Ski Areas of New York Internet Publishing Services, provided additional information pertaining to the Petition on April 18, 1997.

The issue raised by Petitioner is whether receipts from the sales of its Web page development services are subject to New York State and local sales and compensating use taxes.

Petitioner submitted the following facts as the basis for this Advisory Opinion. Petitioner also provided its Web address (URL) as a link to the Web pages developed for its clients.

Petitioner is considered a "presence provider." That is, Petitioner develops Web pages for ski and non-ski related clients who wish to have a presence on the Internet. Petitioner provides its Web page development services to clients by organizing content for the Web pages and then electronically publishing the data.

Once the Web pages are created, Petitioner uses File Transfer Protocol (FTP) to transfer the data via modem to Internet Service Providers (ISP) who host the Web pages. Petitioner pays fees to the ISPs for these services.

Petitioner does not make any sales or other transfers of tangible personal property to its clients nor does it perform any services on tangible personal property as part of its Web page development services.

Clients are charged fees for the development services and Petitioner passes through to the clients the hosting fees that are charged by the ISPs.

Opinion

The Web page development services that are provided by Petitioner to its clients are not included among the enumerated services that are subject to New York State and local sales and compensating use taxes. Moreover, to the extent

TSB-A-97(35)S
Sales Tax

that the Web pages developed by Petitioner are of an advertising nature, the services of advertising are specifically excluded from tax. Accordingly, receipts from the sales of Petitioner's Web page development services are not subject to New York State and local sales and compensating use taxes.

DATED: June 25, 1997

/s/
John W. Bartlett
Deputy Director
Technical Services Bureau

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