

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

TSB-A-99(39)S  
Sales Tax  
September 17, 1999

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S990519A

On May 19, 1999, the Department of Taxation and Finance received a Petition for Advisory Opinion from Sistine Systems, 177 Keller Ave., Kenmore, New York 14217.

The issue raised by Petitioner, Sistine Systems is whether sales tax applies to the services described below.

Petitioner submits the following facts as the basis for this Advisory Opinion.

The services performed by Petitioner between July 1, 1996 through October 1, 1998 involved the cleaning of suspended ceilings. The cleaning process involves the use of expensive, highly specialized equipment to apply a proprietary cleaning solution specifically designed for the cleaning of ceiling tiles. The total number of jobs done during that period was less than two dozen. All those jobs were done on a job to job basis and never involved a regular contractual basis or consisted of a time frame of more than a single day of work. Petitioner stated that the process used to clean the ceilings does not constitute "ordinary janitorial services" as described in Department of Taxation and Finance Notice entitled New York State Sales and Use Tax on Interior Cleaning and Maintenance Services, N-90-17. Petitioner asserts that its services constitute laundering so that the receipts are excluded from sales tax under Section 1105(c)(3)(ii) of the Tax Law.

**Applicable Law and Regulations**

Section 1105 of the Tax Law provides, in part:

Imposition of sales tax.-On and after June first, nineteen hundred seventy-one, there is hereby imposed and there shall be paid a tax of four percent upon:

\* \* \*

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

\* \* \*

(3) ...maintaining, servicing or repairing tangible personal property,...not held for sale in the regular course of business,...except:

\* \* \*

(ii) any receipts from laundering, dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining;...

\* \* \*

(5) Maintaining, servicing or repairing real property, property or land, as such terms are defined in the real property tax law, whether the services are performed in or outside of a building, as distinguished from adding to or improving such real property, property or land, by a capital improvement as such term capital improvement is defined in paragraph nine of subdivision (b) of section eleven hundred one of this article, but excluding services rendered by an individual who is not in a regular trade or business offering his services to the public,...

Section 527.5(a)(3) of the Sales and Use Tax Regulations provides:

Maintaining, servicing and repairing are terms used to cover all activities that relate to keeping tangible personal property in a condition of fitness, efficiency, readiness or safety or restoring it to such condition.

Section 527.7 of the Sales and Use Tax Regulations provides, in part:

(a) *Definitions.* (1) *Maintaining, servicing and repairing* are terms which are used to cover all activities that relate to keeping real property in a condition of fitness, efficiency, readiness or safety or restoring it to such condition. Among the services included are services on a building itself such as painting; services to grounds, such as lawn services, tree removal and spraying; trash and garbage removal and sewerage service and snow removal.

\* \* \*

(b) *Imposition.* (1) The tax is imposed on receipts from every sale of the services of maintaining, servicing or repairing real property, whether inside or outside of a building....

### **Opinion**

Petitioner's service of cleaning suspended ceilings constitutes maintaining or servicing tangible personal property or real property, subject to State and local sales taxes under Section 1105(c) of the Tax Law. Petitioner's service is not a laundering service for purposes of the exclusion from tax contained in Section 1105(c)(3)(ii) of the Tax Law.

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In Matter of Delta Sonic Car Wash, Inc., Dec Tax App Trib, November 14, 1991, TSB-D-91(89)S, the Tribunal, in holding that certain car wash services were not excluded from tax as laundering, stated as follows:

The term "laundering" is one of several services the receipts from which are excluded from sales tax pursuant to section 1105(c)(3)(ii). It has no definition in the Tax Law nor is it a term which is specifically defined in the Commissioner's regulations. We agree with petitioner that ascribing a dictionary meaning to an undefined term may, under certain circumstances, be useful in determining the sense in which the word is used in a statute. However, we are also mindful that the words of a statute are not construed singly; rather, each is construed in connection with the other words of the context....

Here, the words associated with "laundering" in the context of section 1105(c)(3)(ii) are "dry-cleaning, tailoring, weaving, pressing, shoe repairing and shoe shining." Clearly, these terms refer to services involving clothing, cloth or leather goods. Indeed, the former State Tax Commission determined that the meaning of "laundering" referred only to the process of cleaning clothes or cloth (see, Matter of Kailburn, State Tax Commn., June 9, 1987; Matter of Douglas H. Casement Enters., State Tax Commn., November 27, 1981; Matter of Scarano, State Tax Commn., December 3, 1975)....

In accordance with Delta Sonic Car Wash Inc., *supra*, the process which Petitioner uses to perform the service of cleaning suspended ceilings does not constitute laundering as contemplated by the exclusion from the imposition of sales tax as provided in Section 1105(c)(3)(ii) of the Tax Law. The receipts from the provision of Petitioner's services are subject to sales tax under either Section 1105(c)(3) of the Tax Law if the suspended ceiling constitutes tangible personal property or under Section 1105(c)(5) if the suspended ceiling constitutes real property.

The purpose of N-90-17 was to announce the amendments to Article 28 of the Tax Law (the New York State Sales and Use Taxes) effectuated by Chapter 190 of the Laws of 1990, effective June 1, 1990, which resulted in the imposition of State and local sales taxes on all charges for interior cleaning and maintenance services performed on a regular contractual basis for a term of 30 days or more. Services of the type performed by Petitioner, for a term of less than 30 days, were subject to State and local sales taxes prior to and after the enactment of Chapter 190.

DATED: September 17, 1999

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

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