

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-A-05(22)S
Sales Tax
June 22, 2005

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S040526B

On May 26, 2004, the Department of Taxation and Finance received a Petition for Advisory Opinion from Clearview Cinemas - CCG Holdings, Inc., 97 Main Street, Chatham, New Jersey, 07928. Petitioner, Clearview Cinemas - CCG Holdings, Inc., provided additional information pertaining to the Petition on June 30, 2004.

The issue raised by Petitioner is whether its purchases of armored courier services are subject to New York State and local sales or use tax.

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

Petitioner operates several motion picture theaters in New Jersey and New York. Petitioner's bank (Bank of New York) provides armored courier service to pick up and transport the cash receipts from Petitioner's theaters. The receipts are counted by Petitioner's employees and a bar code is attached to each cash bag showing the amount of receipts contained in the bag. Upon pick up, the cash bag bar codes are scanned by the armored courier and the amount is immediately credited to Petitioner's account in the Bank of New York. The cash bags are then delivered to a New Jersey cash depot and subsequently transported, with cash receipts from other businesses which have been delivered to the cash depot, to the Bank of New York in Long Island City, New York, where they are counted. If there are any discrepancies between the amount scanned at the theater and the amount counted, necessary adjustments are made to Petitioner's account by the bank.

Applicable law

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 . . . upon:

* * *

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

* * *

(8) Protective and detective services, including, but not limited to, all services provided by or through alarm or protective systems of every nature, including, but not limited to, protection against burglary, theft, fire, water damage or any malfunction of

industrial processes or any other malfunction of or damage to property or injury to persons, detective agencies, armored car services and guard, patrol and watchman services of every nature other than the performance of such services by a port watchman licensed by the waterfront commission of New York harbor, whether or not tangible personal property is transferred in conjunction therewith.

Section 1110(a) of the Tax Law provides in part:

Except to the extent that property or services have already been or will be subject to the sales tax under this article, there is hereby imposed on every person a use tax for the use within this state on and after June first, nineteen hundred seventy-one except as otherwise exempted under this article . . . (C) of any of the services described in paragraphs one, seven and eight of subdivision (c) of section eleven hundred five

Opinion

In this case, Petitioner's bank (Bank of New York) provides armored courier service to pick up and transport the cash receipts from Petitioner's theaters to Petitioner's bank. The bank charges Petitioner for this service. Pursuant to sections 1105(c)(8) and 1110(a)(C) of the Tax Law, protective and detective services are subject to the New York State and local sales and use taxes. Protective and detective services include armored car and bonded courier services. (See Important Notice entitled *New York State Sales and Use Tax on Protective and Detective Services*, N-90-20.)

The application of the tax to armored car services and the services of bonded couriers is determined by the place in which the items protected are delivered, regardless of where the items are picked up. See *Cobert Banking Courier Corp.*, Adv Op Comm T & F, December 16, 1996, TSB-A-96(78)S.

Accordingly, Petitioner's purchases of armored courier service are subject to the New York State and local sales and use taxes at the applicable tax rate where Petitioner's property is delivered to the Bank of New York located in New York State.

DATED: June 22, 2005

/s/
Jonathan Pessen
Tax Regulations Specialist IV
Technical Services Division

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