

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

TSB-A-05(43)S
Sales Tax
December 5, 2005

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S050623A

On June 23, 2005, the Department of Taxation and Finance received a Petition for Advisory Opinion from Loomis, Fargo & Co., 2500 Citywest Blvd., #900, Houston, Texas, 77042. Petitioner, Loomis, Fargo & Co., provided additional information pertaining to the Petition on October 3, 2005.

The issue raised by Petitioner is whether its charges for services it calls "cash management services" are subject to sales tax.

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

Petitioner is an armored car company that provides several cash management services in addition to its armored car service.

Petitioner's cash management services consist of the following services:

- 1) *ATM cassette preparation* which consists of unloading an ATM's cassette, verifying amounts of individual deposits against what is reported on associated deposit slips, counting currency, placing cash into the empty ATM cassette, reloading the cassette and sealing it.
- 2) *Change order preparation* which consists of preparing of coin and currency from an inventory for delivery to a customer's location.
- 3) *Currency verifying* which consists of counting inbound and outbound currency to verify cash amounts.
- 4) *Deposit processing* which consists of counting, verifying and consolidating (wrapping, banding, rolling) customer deposits for bank or Federal Reserve Bank deposit.
- 5) *Envelope processing* which consists of verifying commercial drop envelope deposits, counting currency, coin and checks and consolidating (wrapping, banding and rolling currency and coin) for bank deposit.

The armored car service can be purchased with or without a cash management service. A customer may purchase one or more of the cash management services. Each of the cash

management services has its own price that is separate from and in addition to the price of the armored car service. It is presumed for purposes of this Advisory Opinion that the separate prices for cash management services and armored car service are reasonable in relation to prevailing market prices.

Applicable law and regulations

Section 1101(b)(3) of the Tax Law defines the term *receipt* for purposes of Article 28 and provides, in part:

Receipt. The amount of the sale price of any property and the charge for any service taxable under this article . . . valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses . . . regardless of whether such charges are separately stated in the written contract, if any, or on the bill rendered to such purchaser. . . .

Section 1105 of the Tax Law provides, in part:

Imposition of sales tax on and after June first, nineteen hundred seventy-one, here 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 . . . armored car services and guard, patrol and watchman services of every nature . . . whether or not tangible personal property is transferred in conjunction therewith.

Section 527.1(b) of the Sales and Use Tax Regulations provides:

Taxable and exempt items sold as a single unit. When tangible personal property, composed of taxable and exempt items is sold as a single unit, the tax shall be collected on the total price.

Opinion

Petitioner is an armored car company that also sells services it calls cash management services. Customers may purchase one or more of these services in addition to the armored car service. Each of the cash management services has its own price that is separate from and in addition to the price of the armored car service.

When tangible personal property composed of taxable and exempt items is sold as a single unit, sales tax is collected on the total price. See section 527.1(b) of the Sales and Use Tax Regulations. The rule has been extended to sales of taxable and exempt services and sales of services with tangible personal property. See *PricewaterhouseCoopers LLP*, Adv Op Comm T&F, March 25, 2003, TSB-A-03(11)S; *Salomon & Leitgeb CPA's, LLP*, Adv Op Comm T&F, July 23, 1997, TSB-A-97(44)S. In *Morton L. Coren, P.C.*, Adv Op Comm T&F, June 29, 1990, TSB-A-90(33)S, it was concluded that even though the components of a particular sale could be separately stated, calculated or estimated, if such components could not be separately purchased, the combination of items must be considered as one and, thus, subject to sales tax as a single purchase. See also *Penfold v State Tax Commission*, 114 AD 2d 696 [1985].

Receipts from the sale of Petitioner's armored car service are subject to sales tax pursuant to section 1105(c)(8) of the Tax Law. Considered separately, Petitioner's cash management services are not services enumerated in section 1105 of the Tax Law and receipts from the sale of such services are not subject to sales tax. In accordance with section 527.1(b) of the Sales and Use Tax Regulations, were Petitioner to charge a single price for all of its services, the entire receipt would be subject to sales tax. However, in the present case, Petitioner sells its armored car services separately from its cash management services, and the charges for cash management services are billed separately from the charges for armored car services. Thus, only the receipts for the armored car services are subject to sales tax. See *Paul J. Carucci*, Adv Op Comm T&F, October 24, 1990, TSB-A-90(54)S.

The rate of sales tax to be collected by Petitioner on its charges for armored car service is determined by the rate in effect at the place in which the protected items are ultimately delivered, regardless of where the items are picked up or where cash management services may occur. For example, assume Petitioner's armored car service picks up a customer's daily receipts at the customer's various stores located in Suffolk County, the receipts are counted and the totals verified at a counting room in Nassau County and the receipts are then transported for deposit to the customer's account at its New York City bank. The charges for the cash management service (counting, verification of deposit amount, etc.) are not subject to tax. The receipt for the armored car service is taxable at the rate in effect in New York City. See *Clearview Cinemas – CCG*

TSB-A-05(43)S
Sales Tax
December 5, 2005

Holdings, Inc., Adv Op Comm T&F, June 22, 2005 TSB-A-05(22)S; *Cobert Banking Courier Corp.*, Adv Op Comm T&F, December 16, 1996, TSB-A-96(78)S.

DATED: December 5, 2005

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