

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

TSB-A-92 (42) S
Sales Tax
May 27, 1992

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S920207B

On February 7, 1992, a Petition for Advisory Opinion was received from Alan/Anthony, Inc., 145 Avenue of the Americas, 2nd Floor, New York, New York 10013.

The issue raised by Petitioner, Alan/Anthony, Inc., is whether the receipts received from its client for a writing and editorial service in connection with the publication of an annual membership directory are subject to sales tax.

Petitioner provides a writing and editorial service, for a nonprofit trade association, for the publication of an annual membership directory called the "Service Guide". The "Service Guide" lists the members of the association and provides detailed information on each one.

The services provided by Petitioner include writing of the member listings based on information provided by the client, submission of manuscripts to the client's graphic department (a unit of the Port Authority of New York and New Jersey), proofreading and copy editing of the typeset pages before submission of the manuscripts to the client for approval and contact with the client. All typesetting and page layout is performed by the graphics department and the costs thereof are paid directly by the client.

Section 1105(a) of the Tax Law imposes sale tax upon the receipts from every retail sale of tangible personal property.

Section 1101(b)(3) of the Tax Law defines receipt as "[T]he amount of the sale price of any property and the charge for any service taxable. . .without any deduction for expenses "

In Crushing Enterprises, Inc., Adv Op Comm T&F, October 10, 1990, TSB-A-90(30.1)S the Commissioner advised that an original handwritten or typewritten lead sheet, musical score, or arrangement is a manuscript and considered to be intangible personal property and therefore not considered to be tangible personal property under the provisions of Section 526.8(c) of the Sales and Use Tax Regulations. The portion of separately stated receipts from the creative fee applicable thereto will not be subject to the tax imposed on the sale of tangible personal property under Section 1105(a) of the Tax Law. (emphasis added)

Accordingly Petitioner's original annual membership directory called the "Service Guide", is a manuscript, and, as such, is considered intangible personal property. Crushing Enterprises, Inc., supra. Therefore, receipts from the sale of the "Service Guide" manuscript and the editorial services performed in connection therewith are not subject to the sales tax imposed pursuant to Section 1105(a) of the Tax Law.

TSB-A-92 (42) S
Sales Tax
May 27, 1992

It is noted that the effect of Section 1101(b)(3) is to treat as a single sale any sale in which any of the components cannot be singly purchased. Thus, even though the components of a particular sale can be separately stated, calculated or estimated, if they cannot be separately purchased, the combination of the items listed must be considered as one. Penfold v. State Tax Commission, 114 AD2d 696 (1985); Crushing Enterprises, Inc., Adv Op Comm T&F, October 10, 1990, TSB-A-90(30.1)S.

Therefore, in the instant case if the writing and editorial services cannot be purchased separately from the sale of the "Service Guide" or other taxable services provided by Petitioner, the combination of the items listed must be considered as one, and the entire charge for all items would be subject to sales tax.

DATED: May 27, 1992

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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