

**New York State Department of Taxation and Finance
Office of Counsel**

TSB-A-20(16)S
Sales Tax
June 9, 2020

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (hereinafter “Petitioner”). Petitioner asks whether her services of teaching private cooking, baking and decorating lessons in people’s homes are subject to sales tax.

We conclude that Petitioner’s services are not subject to sales tax.

Facts

Petitioner intends to teach private cooking and baking lessons in people’s homes. Petitioner will offer her customers one of three services. One service includes Petitioner’s customers purchasing all necessary ingredients and Petitioner working with her customers to improve practical skills and complete one to three dishes. Petitioner will provide the customers with copies of any recipes and pertinent information used either electronically or on paper. A second service Petitioner will offer is the same as the first, except for an added cost Petitioner will supply some or all of the ingredients. Petitioner’s third service involves Petitioner providing a partially finished product, such as cut-out cookies or pre-made, undecorated gingerbread houses, and any additional necessary items, and teaching customers how to decorate the product. The charge for each service will be in one lump sum.

Analysis

Tax Law § 1105(c) imposes sales tax on the receipts from every sale, except for resale, of certain enumerated services. Cooking and baking lessons are not among the services subject to tax. *See* Tax Law § 1105(c); TSB-A-02(34)S. When Petitioner provides the relevant ingredients, Petitioner is using those ingredients in the provision of a non-taxable service and is not reselling those ingredients to the customer. Therefore, Petitioner should pay any applicable sales tax on the purchase of the ingredients. *See* 20 NYCRR 526.6(c)(7); TSB-A-01(12)S. Because the ingredients and recipes provided in tangible form are incidental to the service, it does not change the non-taxability of the

service. *See* TSB-A-01(12)S. Therefore, the lump sum charge for providing these lessons is not subject to tax.

DATED: June 9, 2020

/S/

DEBORAH R. LIEBMAN
Deputy Counsel

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.