

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] (“Petitioner”). Petitioner asks whether sales tax is due on the purchase of seismograph equipment that the Petitioner uses to provide vibration monitoring services to customers under Articles 28 and 29 of the Tax Law. We conclude that Petitioner’s purchases of seismographs are subject to sales tax.

Facts

Petitioner is a vibration monitoring company that provides data to customers for development projects. Its services include pre-and post-construction surveys, seismographic monitoring programs, crack monitoring, and general engineering oversight. Petitioner provides vibration monitoring programs that continuously monitor and record peak particle velocities at properties adjacent to construction sites. This data then is used to generate alerts if the vibration threshold has been exceeded. Seismographs are used to gather the necessary data to perform these measurements. The seismograph has a computer attached to it that records and stores all data. Once the data is collected, it then is provided to the customer in a report.

Analysis

Petitioner asks whether its purchase of a seismograph used in its vibration monitoring program is subject to state and/or local sales tax under Articles 28 and 29 of the Tax Law. Generally, Tax Law §1105(a) imposes a sales tax on receipts from every retail sale of tangible personal property unless otherwise excluded or exempted. Tangible personal property is defined as “[c]orporeal personal property of any nature.” Tax Law §1101(b)(6).

The seismograph is equipment used to monitor, gather and report vibration data. Thus, it qualifies as tangible personal property. Petitioner uses the seismograph to monitor vibrations and provide reports to its customers. It does not resell the equipment to its

customers and there is no other applicable equipment exemption. Therefore, Petitioner's purchase of the seismograph is subject to sales tax.

DATED: October 20, 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.