

New York State Department of Taxation and Finance
Office of Counsel
Advisory Opinion Unit

NYT-G-12(1)S
Sales Tax
July 24, 2012

Application of State and Local Sales Tax to Facilities that Provide Yoga Instruction

The issue raised is whether any of Company X's New York City facilities constitute a "weight control salon, health salon, or gymnasium" for the purposes of Section 11-2002(a) of the Administrative Code of the City of New York (Administrative Code). Company X asks whether it must collect sales tax on its receipts at these facilities.

We conclude that each of Company X's facilities, other than the one that only provides instruction in yoga, constitutes a "weight control salon, health salon, or gymnasium" for the purposes of Section 11-2002(a) of the Administrative Code. Accordingly, all of Company X's receipts from the services provided at these facilities are subject to local sales tax. However, the facility that offers only instruction in yoga is not a "weight control salon, health salon, or gymnasium" for the purposes of Section 11-2002(a) of the Administrative Code.

Facts

Company X operates multiple facilities in New York City. Most of these facilities provide both Pilates classes and instruction in yoga. Almost all of these facilities offer Pilates classes using mats, while a few also offer Pilates classes that use equipment. One facility only offers instruction in yoga. None of Company X's facilities offer participatory sports or access to facilities such as a swimming pool.

At all of its facilities, Company X only provides instructor-led classes that are primarily group-oriented. These classes are held at regularly scheduled intervals. Company X does not allow any unrestricted access to its studios, and does not make any equipment (including Pilates equipment) available to its students for unscheduled self-directed work-outs.

Students typically bring their own mats to Company X's classes. However, all facility lobbies have a boutique that makes retail sales of mats, yoga pants and other clothing items and accessories. Company X also has mats available for daily rental, and students may pay to store their mats in storage areas at Company X's facilities.

Analysis

The charges by Company X for the use of its facilities do not constitute charges for admission to a place of amusement. Therefore, its fees are not subject to sales tax on admission charges under section 1105(f)(1) of the Tax Law. See [TSB-A-00\(26\)S](#). The customers do not control any social or athletic activities, do not participate in the management of the facility or in the selection of other participants, or possess any proprietary interest in Company X. The number of participants is restricted solely because of the physical size of the facility. Therefore, Company

X's facilities are not social or athletic clubs as defined in section 1101(d)(13) of the Tax Law and paragraphs (5) and (7) of section 527.11(b) of the Sales and Use Tax Regulations. Accordingly, Company X's charges are not subject to tax as dues paid to a social or athletic club under section 1105(f)(2) of the Tax Law.

In addition, yoga and Pilates classes are not among the services enumerated as taxable under section 1105(c) of the New York State Tax Law. However, section 11-2002(a) of the Administrative Code imposes a local sales tax on the receipts from "every sale of services by weight control salons, health salons, gymnasiums, Turkish and sauna bath and similar establishments and every charge for the use of such facilities." Company X's charges are subject to the New York City local sales tax if its facilities fall within the meaning of one of these terms.

A gymnasium is commonly understood to be an indoor facility where sporting and/or exercise activities take place. Most of Company X's facilities provide Pilates classes, which constitute exercise activities. These facilities, therefore, qualify as gymnasiums under section 11-2002(a) of the Administrative Code. Consequently, Company X's charges for all the services provided at, or for the use of, these facilities, including classes for instruction in yoga, are subject to the New York City local sales tax. See [NYT-G-08\(2\)S](#).

However, one facility only offers instruction in yoga. We conclude that instruction in yoga is not an exercise activity because yoga generally includes within its teachings not simply physical exercise, but activities such as meditation, spiritual chanting, breathing techniques, and relaxation skills. Consequently, this facility is not a gymnasium for the purposes of section 11-2002(a) of the Administrative Code. The exclusive use of a facility to teach yoga forms and techniques will not, absent other activities that commonly take place at gymnasiums, cause the facility to be considered a weight control salon, health salon, or gymnasium. Therefore, the charges for yoga instruction by this facility are not taxable.

Company X's retail sales of non-clothing products (mats and other accessories) are subject to both the State and local sales taxes unless an exemption applies. See Tax Law §§1105(a), 1210(a)(1). The fees Company X charges to rent mats are also subject to State and local sales taxes. Effective April 1, 2012, Company X's sales of items of clothing are exempt from the State and New York City local sales taxes if the item is sold for less than \$110.¹ Items of clothing sold for \$110 or more are subject to the full combined rate of State and local sales taxes. Fees paid by members to store their mats are subject to State and local sales taxes pursuant to section 1105(c)(4) of the Tax Law. See [TSB-A-08\(64\)S](#).

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¹ For additional information on State and local sales taxes on clothing and footwear, see [TSB-M-12\(3\)S](#).

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