

What New York's Latest Sales Tax Ruling Means for Your Service Business

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As we've [previously informed](#) you, states have increasingly expanded their sales tax base to include various services, in particular those relating to the technology, public relations and media industries. Just last week, New York pushed the envelope again by issuing a new Tax Appeals Tribunal decision, *Dynamic Logic Inc. v. New York Tax Appeals Tribunal*, regarding online information services. The ruling illustrates the growing net of taxable services in New York while simultaneously limiting the scope of exclusion protections that were previously enacted.

Facts

In this case, a taxpayer provided a digital tool to a number of online advertising companies that gauged the effectiveness of certain Internet advertising campaigns. The tool aggregated survey responses from viewers to establish benchmarks for industry-specific databases. The analysis was compiled into reports, including recommendations to improve the effectiveness of future advertising initiatives.

Law

New York tax law imposes sales tax on information services, which includes “the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons.” An exception to the rule applies when the information is “personal or individual in nature,” and such data is not incorporated into reports for third parties. However, information services are presumed taxable unless the taxpayer, under the burden of proof, establishes that the exclusion applies.

Ruling

The New York Tax Appeals Tribunal held that the taxpayer’s reports were based on data gathered from customer surveys and, therefore, constituted an information service. These materials, consolidated into charts, graphs and written forms, were prepared by research analysts and are the source of the recommendations, insights, and key deliverables. As such, the taxpayer’s services were drawn directly from the data collected, underscoring the fact that the information provided was not personalized in nature.

Takeaway

This latest ruling confirms that New York will continue to stretch the application of its sales tax laws and minimize the availability of exclusions granted via legislation. Taxpayers are forewarned to reexamine the services they provide in light of this decision, to verify the taxability of their service renderings. In this case, the taxpayer’s exposure was \$2.7 million, so the ramifications of this can be significant and the time to address this is now.

If you have questions about the taxability of your services and what sales tax responsibilities you may have, please contact [Alan Goldenberg](#), Principal and Leader of the State and Local Tax and Tax Controversy groups, or your Anchin Relationship Partner.