

Tax Notes - Information Services

(10/18/06)

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Effective October 1, 2006, information services are subject to New Jersey sales and use tax. Information services are defined in the law as “the furnishing of information of any kind, which has been collected, compiled, or analyzed by the seller, and provided through any means or method, other than personal or individual information which is not incorporated into reports furnished to other people.” (See N.J.S.A. 54:32B-3(b)(12).) The tax applies to the sale of information services delivered to customers in New Jersey.

Many services are currently exempt from sales tax as either personal or professional services or non-enumerated services. As a necessary part, these services may include the collection and/or review of information in order to provide the purchaser with the true object of the service. Thus, a lawyer gathers personal information and draws up a will; an accountant gathers financial information and prepares tax returns; an engineer gathers building and construction information and creates blueprints. In all of these transactions, the object of the transaction is not the raw information itself. These type of services remain exempt from tax.

On the other hand, a business which provides access to any type of information (e.g. stock quotes, financial, legal research, property values, and marketing trends) through any means (e.g. an electronic database, subscription to a hard copy report) is selling an information service, because what the customer seeks in that transaction is the information itself. As of October 1, 2006, the sale of such an “information service” is subject to tax.

Fees paid to obtain governmental documents and records

Fees and charges paid to New Jersey governmental agencies or federal governmental agencies to obtain documents, records, or information of any kind which are required to be maintained as part of the agency's regulatory function are not subject to sales tax.

Multiple Points of Use Exemption

The law allows the purchaser of a taxable service which will be concurrently available for use in more than one jurisdiction to provide the seller with a Multiple Points of Use (MPU) exemption form. “Concurrently available for use in more than one jurisdiction” means accessible or ready for immediate use at the same time in more than one jurisdiction. If the purchaser is not a direct pay permit holder, this exemption may only be claimed using the Streamlined Sales and Use Tax Certificate of Exemption (see section 5K).

An information service may be concurrently available for use in more than one jurisdiction; for example, if the service is provided to the purchaser by electronic means such as by accessing an online database. Upon receipt of the Certificate of Exemption, a seller is relieved of the obligation to collect, remit or pay the tax and the purchaser is obligated to remit the applicable sales tax directly to the Division. A purchaser claiming the MPU exemption may use any reasonable but consistent and uniform method of apportionment that is supportable by the purchaser's business records as they exist at the time of the sale. If the purchaser does not provide the

Streamlined Sales and Use Tax Agreement Certificate of Exemption, the sale is sourced to the location where the service is received by the purchaser.

The Division has been asked about the taxability of various services. The following are examples of "information services":

- A business sells mailing lists which are delivered to the customer either in hard copy, as labels, or through electronic means. This is an information service and is subject to tax as of October 1.
- A business sells credit reports to individuals seeking their own report, as well as to businesses that will use the information for reviewing credit history, etc. This service is an information service and is subject to tax as of October 1. The information is not personal or individual because it is furnished in reports sold to persons other than the individual.
- A business collects and compiles information from different sources regarding new construction projects and provides the information in abstracts or reports to its clients. The abstracted information may be accessed from the business's website, or the client can obtain the information via email or by facsimile. This service is an information service and is subject to tax as of October 1. The information is not personal or individual.
- A business maintains a computer database of statistical information, which is sold to customers. A customer pays a fee for a period of time during which information can be accessed online, with the option to just view it or download and/or print it. No disk or other information is sent to the customer. This service is an information service and is subject to tax as of October 1. The information is not personal or individual.
- A business sends severe weather alerts to a customer's email address or mobile device. Customers are charged an annual fee for this service. This service is an information service and is subject to tax as of October 1. The information is not personal or individual.
- A business tracks and measures sales of drugs to pharmacies, hospitals, nursing homes and other service providers. Customers stipulate the parameters of their request, for example by indicating the specific drugs, the geographic area, the time frame, etc. This service is an information service and is subject to tax as of October 1. The fact that the customer customizes their request by selecting the particular information to be searched does not make the information personal or individual.
- A web-based business allows clients to obtain up to date information about their own website, such as online behavior. The information is collected by the business by embedding code into the client's website design, which sends the info to the business's server. Clients can request reports based on their needs, such as the amount of time customer's spend viewing, length of time on the website, etc. This service is an information service, however, the

information is personal or individual in nature and thus, the charge is not subject to tax.

- A web-based business gathers statistics concerning the characteristics and activities of Internet users and publishes these statistics on its website. This information is available to anyone subscribing to the service. This service is an information service and is subject to tax as of October 1. The information is not personal or individual.
- A web-based business provides a legislative tracking service which allows customers to select the type of data searched, based on their particular needs. Subscription fees are based on the number of bills tracked the number of users, or some other means. This is an information service and is subject to tax as of 10/1/06. The fact that the subscriber selects the information to be searched does not make it personal or individual information.
- A business sells a news clipping service whereby it searches information from a variety of sources and gathers any information which mentions the customer's name. The information collected is provided to the customer. The news clipping service is an information service, however, the information is personal or individual to the customer and therefore the service is not subject to tax.

The following are examples of services that are not "information services":

- The principal purpose of a multiple listing service, which is only available to a real estate licensee, is to facilitate offers of cooperation and compensation between brokers. This service is not an information service and is not subject to tax.
- As requested, a business obtains information concerning a particular piece of real property which may include an on-site inspection of such property in order to sell a real estate appraisal to banks, mortgage companies, individuals, etc. The appraisal service is not an information service and is not subject to tax.
- A business sells criminal background checks of potential employees on behalf of employers. The search is conducted through the Internet. The background check service is not an information service. However, it is an "investigation and security service," which is subject to tax as of 10/1/06. If the background report is sent to a location in New Jersey, sales tax must be collected. See the Division's [Tax Notes](#) regarding this service.
- A business sells consulting services to advise clients on their hardware and/or software needs. These services include interviewing staff to gather information and presenting a written report on findings and

recommendations. The consulting service is not an information service and is not subject to tax.

- A business sells "contract programming" services which consist of the design, development and implementation of computer programs based on the client's particular environment. The consulting service is not an information service and is not subject to tax.
- An attorney consults with a client, gathers information and draws up a legal document such as a will, a contract, a power of attorney, etc. The service is not an information service and is not subject to tax.
- A business performs environmental testing services and issues a report on factors such as the condition of the property, levels of a particular substance, habitability, etc. The testing service is not an information service and is not subject to tax.
- A business sells payroll processing services for its customers by receiving employee specific information and printing pay checks, pay stubs, and/or similar items. The payroll processing service is not an information service and is not subject to tax.
- A business sells court stenography services which result in a transcript of court or other legal proceedings. The court stenography service is not an information service and is not subject to tax.
- A business provides accident reconstruction services which include obtaining and reviewing police reports, medical records, etc, and a physical inspection of the scene. The accident reconstruction service is not an information service and is not subject to tax.
- A title insurance company performs a title search on real property, examines the information and determines whether to issue a title insurance policy to the purchaser. The issuance of a title policy, which includes the pass-through of costs associated with obtaining and examining the information is not an information service and is not subject to tax.

However, certain costs incurred by the title company that are associated with issuing the policy are now taxable to the title insurance company. For example, if the title company purchases information from a seller that maintains the information in an electronic database, the sale of such information is subject to tax as an information service. Although the information request may be specific to a particular property or person, the seller, through its electronic database, furnishes this information to others. e.g. Upper Court Searches, Flood Searches. The title company is not considered a reseller of this information; rather, they are obtaining and using the information in order to issue a title insurance policy. Therefore, the issuance of a resale certificate (ST-3) is not appropriate between the title company and the seller of the information.

- A business receives orders from lawyers for the preparation of certificates to form corporations or limited liability companies. The documents are prepared,

hand delivered to Commercial Recording for filing, retrieved once they are registered, and sent to attorneys. The business also receives documents from customers which it submits to the state for filing. This is not an information service and is not subject to tax.

- A company, professional organization or trade school offers educational seminars, classes or courses attended by individuals seeking continuing education credits, required pre-licensing education, or to advance their expertise in a particular profession. Written and published educational material may or may not be distributed to participants attending these educational programs. The educational seminar, class or course is not an information service and is not subject to tax.