

## Sales/Use/Indirect:

### New York Appellate Court Agrees that Certain Taxable Information Services Do Not Fall Under Statutory Exclusion

*Case No. 535445*, N.Y. App. Div. (2/29/24). A New York Supreme Court, Appellate Division (Court), affirmed [see *State Tax Matters*, Issue 2022-5, for details on the New York Tax Tribunal’s earlier ruling in this case] that a taxpayer’s provided services, including measuring “advertising effectiveness” and disseminating related improvement recommendations, constituted taxable information services that effectively are substantially incorporated into reports furnished to others and thus could *not* be excluded from taxation as personal or individual in nature. In doing so, the Court explained that while the taxpayer insists that these services are nontaxable consulting services, the record supports the finding that the primary function of the services is the collection and analysis of information. Moreover, the Court reasoned that information from the taxpayer’s provided reports can fairly be regarded as “substantially incorporated” into reports furnished to others because some information incorporated into another database for use in other reports that it furnishes is qualitatively valuable to the analysis services that it provides. Please contact us with any questions.

**URL:** <https://iapps.courts.state.ny.us/search/wicket/page?2--pnIResultContainer-pnIResult-1-lnkDocument>

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220204\\_6.html](https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220204_6.html)

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