

Sales/Use/Indirect:

New York: Facility Management Subscription Fees Deemed Taxable When Bundled with Prewritten Software

Determination DTA Nos. 829500 and 829501, N.Y. Div. of Tax App., ALJ Div. (5/9/24). In a case involving two taxpayers providing their customers with facilities management services, including “24/7 call-in transaction center access, web-based portal access (portal), work order management, vendor management, electronic invoicing, and data analytics, all under the single moniker – Integrated Facilities Management (IFM),” an administrative law judge (ALJ) with the New York Division of Tax Appeals held that the taxpayers in fact sold prewritten software along with other components for one single subscription charge and therefore the subscriptions constituted taxable sales. In doing so, the ALJ noted that when a bundle of taxable and non-taxable property is sold together for one charge, the entire charge is taxable, and rejected the taxpayers’ claims that the primary function of their respective businesses was providing nontaxable facilities management services to their customers which were “merely tech enabled.” Please contact us with any questions.

URL: <https://www.dta.ny.gov/pdf/determinations/829500.det.pdf>

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