

Sales/Use/Indirect:

New York: Advisory Opinion Concludes Charges for Accessing Mobile App and Dashboard are Taxable Receipts from Software Sale

TSB-A-24(42)S, N.Y. Dept. of Tax. & Fin. (10/8/24). A recently posted New York Department of Taxation and Finance advisory opinion involving a multi-level marketing company that charges its distributors a monthly bundled fee for accessing its mobile application, accessing its dashboard, and obtaining a unique personalized website concludes that based on the provided facts, the entire monthly charge is subject to New York State and local sales tax if the distributor is located in New York. Specifically, the opinion explains that under the provided facts, the charges for accessing the mobile application constitute receipts from the sale of prewritten computer software. Similarly, the charges for accessing the company's dashboard constitute receipts from the sale of prewritten computer software, because the dashboard provides online tools to view, track and manage all the data about the distributorship and the "downline." The opinion notes that while it is unclear whether the provided personalized website constitutes taxable prewritten computer software versus nontaxable customized software, "when tangible personal property, composed of taxable and exempt items is sold as a single unit, the tax shall be collected on the total price." Please contact us with any questions.

URL: https://www.tax.ny.gov/pubs_and_bulls/advisory_opinions/sales/24-42s.htm

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