Some Cleaning Services Exempt From Sales Tax, New York Tax Department Says

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By Paige Jones

A New York state tax advisory opinion on the taxation of cleaning services shows that minor differences in facts can result in major differences in tax, according to one practitioner.

In an advisory opinion released November 5, the New York State Department of Taxation and Finance said that a petitioner's rug and carpet cleaning services are exempt from sales taxes, but that "other cleaning services and floor repair services" are not.

Timothy Noonan of Hodgson Russ LLP told *Tax Notes* on November 6 that the advisory opinion shows how a minor difference in facts surrounding a case "can yield major differences in tax."

The petitioner subcontracts services to businesses and offices, including floor, carpet, and window cleaning and floor repair. Under state tax law, maintenance, service, and repair of tangible personal property and real property are typically subject to sales tax, but dry cleaning and laundering services are excluded, the opinion says. "The Department has interpreted this exclusion to include the services of cleaning rugs, wall-to-wall carpeting, draperies and upholstery," according to the advisory opinion. However, cleaning services for windows and uncarpeted flooring are subject to sales tax, the opinion says, citing a 2016 tax bulletin (TB-ST-740), which says "maintaining, installing, servicing, and repairing of tangible personal" and real property are subject to sales tax.

In another recent advisory opinion, the state tax department says that a petitioner's carpet and upholstered furniture cleaning services are exempt from sales tax, but that refinishing, stripping, and waxing services for wood flooring are taxable.

Noonan said there is a "severe backlog" of advisory opinions in the New York state tax agency. "It can take two or three years to receive an answer, and I suspect it took that amount of time to get an answer even on this fairly basic question," he said.