

June 28, 2006

Re: Request for Ruling
Anonymous
General Corporation Tax
FLR 064846-006

Dear

This responds to your request, dated February 2, 2006, for a ruling regarding the application of the New York City General Corporation Tax (the "GCT") to hypothetical facts. This office received additional information concerning this request on April 14, 2006.

FACTS

The hypothetical facts presented are as follows:

A non-New York corporation (the "Taxpayer") engages in the business of providing routine laboratory services, including the analysis of blood samples. The Taxpayer does not operate a laboratory in the City; since 2005, however, it has provided services to patients in the City in two ways, through the operation of two patient service centers in the City where blood is drawn, and by transporting blood samples to its laboratories.

At each of the two patient service centers, the Taxpayer employs a phlebotomist to draw blood samples. Each center is in a space used exclusively by the Taxpayer with sign identifying the Taxpayer. Patients seeking to have blood samples analyzed visit the center where the phlebotomist draws the blood. The centers have no clerical or other employees apart from the phlebotomist. The blood drawn from the patient is delivered to the Taxpayer's laboratories. The Taxpayer charges the standard fee for drawing blood (currently \$15.00), and standard fees based on the tests requested by the healthcare provider, and is not charged for the transportation of the blood samples. These fees are separately itemized on the invoices prepared by the Taxpayer.

In addition, the Taxpayer's laboratories also analyze blood drawn by phlebotomists in independent doctor's offices in the city. In those cases, an employee of the Taxpayer transports the samples to

the Taxpayer's laboratories. The patient is charged standard fees for the laboratory testing and is not charged for transportation.

Thus, when providing services to patients in the City, the Taxpayer performs services both within and outside the City. With respect to services rendered through the two patient service centers, the Taxpayer's employees perform three functions, drawing of blood, which takes place in the City, transporting of the blood to the Taxpayer's laboratory, which occurs both within and outside the City, and laboratory analysis, which takes place outside the City. With respect to blood drawn by independent doctors and transported to the Taxpayer's laboratories, the Taxpayer performs only two of these functions, the transportation, which occurs inside and outside the city and the laboratory testing, which occurs outside the City. In each case, while the charges are based on standard fees, the Taxpayer charges a lump sum for its services.

ISSUE

You have requested a ruling addressing attribution within and outside the City of receipts the Taxpayer derives from providing blood testing services to patients in the City for purposes of the allocation of the Taxpayer's entire net income under the GCT.

CONCLUSION

Based on the hypothetical facts, presented we conclude that it is reasonable for the Taxpayer to attribute the fees for drawing blood to the City and to attribute the fees for testing blood outside the City. Based on those facts, it is reasonable to disregard the transportation. The Taxpayer should submit details of its method of attribution with its report.

DISCUSSION

The GCT is imposed on corporations that do business, employ capital, own or lease property or maintain an office in the City. Section 11-603.1 of the New York City Administrative Code (the "Code"). Under the GCT, a corporation's entire net income is allocated to the City by multiplying a corporation's business income by a business allocation percentage and then adding that amount to an investment income amount determined by multiplying investment income by an investment allocation percentage. Code § 11-604.3.

A taxpayer's business allocation percentage is determined by computing percentages for the following three factors: (i) real and tangible personal property within the City divided by all real and tangible personal property; (ii) receipts within the City divided by total receipts; and (iii) wages within the City divided by total wages. The percentages are then added together and the resulting sum is then divided by three to determine the business allocation percentage. Code § 11-604.3(a).

You have requested a ruling concerning computation of the receipts factor in the three-factor formula in the context of the facts presented concerning the Taxpayer's business. You have told us that the laboratory offers blood-testing services to patients in City. Concerning the allocation of receipts derived from services, Title 19 of the Rules of the City of New York ("RCNY") section 11-65(b)(1) provides that:

Receipts from services performed within New York City are allocable to New York City. All amounts received by the taxpayer in payment for such services are so allocable, irrespective of whether such services were performed by employees or agents of the taxpayer, by subcontractors, or by any other persons. It is immaterial where such amounts were payable or where they actually were received.

Concerning receipts derived from services provided both within and outside the City, 19 RCNY section 11-65(b)(3)(i) provides:

Where a lump sum is received by the taxpayer in payment for services within and without New York City, the amount attributable to services within New York City is to be determined on the basis of the relative values of, or amounts of time spent in performance of, such services within and without New York City, or by some other reasonable method. Full details must be submitted with the taxpayer's report.

The Taxpayer, thus, must use a reasonable method to attribute amounts derived from services within and outside the City.

Taxpayer operates laboratories for routine services including blood testing outside the City. It provides its blood testing service to patients in the City in two ways, through the operation of two patient service centers where blood is drawn and then transported to its laboratories, and by transporting to its laboratories blood that is drawn in the City by third parties. In both cases, a lump sum is paid for the services. As a result, the receipts derived from those services must be attributed to services performed both within and outside the City as provided in 19 RCNY section 11-65(b)(3)(i).

With respect to receipts derived through the two patient service centers, you have told us that the patient is charged the standard fee for drawing blood (currently \$15.00) and standard fees based on the tests requested by the healthcare provider, and is not charged for the transportation of the blood samples. Those charges are set out on an invoice prepared with respect to the testing.

With respect to blood drawn by independent doctors and transported to the Taxpayer's laboratories, the laboratory testing occurs outside the City and the transportation is partially inside and outside the city. The Taxpayer is charged a flat fee, which is based on standard charges for the laboratory tests and is not charged for transportation.

Because, in the hypothetical facts submitted, the fees charged by the Taxpayer are composed of standard fees for either the drawing of blood or laboratory testing of blood, those fees are clearly specified on invoices issued by the taxpayer, and the location of these two different activities is certain, we believe that those facts present a situation where the use of standard fees is a reasonable method of attribution. As a result, we conclude, based on the hypothetical facts submitted, that it is reasonable to attribute the fees for the drawing of blood to the City, and the fees for the laboratory analysis of blood outside the City. Because there is no additional charge for the transportation, which occurs inside and outside the City, it is reasonable, in this case, to disregard the transportation. As provided in 19 RCNY section 11-65(b)(3)(i), details concerning that attribution should be submitted with the Taxpayer's report.

* * *

Sincerely,

Dara Jaffe
Assistant Commissioner
Office of Legal Affairs

LED: ld