

## Indirect/Sales/Use:

### New York Tax Appeals Tribunal Says Information Technology Services are Taxable Protective Services

*Decision DTA Nos. 828328 and 828329*, N.Y. Tax App. Trib. (2/17/22). The New York Tax Appeals Tribunal (Tribunal) affirmed an administrative law judge (ALJ) ruling to hold that a taxpayer providing information technology-related security services failed to meet its burden of establishing that its resident security operations did not constitute taxable “protective and detective services” under applicable state statutes. In doing so, the Tribunal agreed with the ALJ ruling, which explained that while the taxpayer “may not take overt action to block attempted connections by threat actors at the moment they occur, by configuring their customers’ appliances to determine who is allowed access and maintaining them to ensure they are operational with the most current policies, petitioner is actively protecting and guarding its customers’ networks from threats.” Accordingly, the Tribunal agreed that the purpose of managing the underlying devices and software is to protect or guard a customer’s network from malicious activity and thus the taxpayer was providing taxable protective services rather than nontaxable information services that are personal or individual in nature. Regarding the taxpayer’s targeted threat hunting service that searches for the presence of malware or evidence of threat actors, the Tribunal also reasoned that any “information services” provided by the taxpayer to its customers in performing its overall services were “incidental aspects of the protective services” and thus cumulatively represent taxable protective services. Please contact us with any questions.

**URL:** <https://www.dta.ny.gov/pdf/decisions/828328and828329.dec.pdf>

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