



December 14, 2016



City of Chicago
Rahm Emanuel, Mayor

Department of Law

Stephen R. Patton
Corporation Counsel

Revenue Litigation Division
30 North LaSalle Street
Suite 1020
Chicago, IL 60602-2580

(312) 744-5691
(312) 744-6798 (Fax)

Re: **Request for Private Letter Ruling**

Dear

I am writing in response to your letter of July 6, 2016 ("Request") (copy attached), requesting a private letter ruling ("PLR") concerning the application of the Chicago Personal Property Lease Transaction Tax ("Lease Tax" or "Tax"), Chapter 3-32 of the Municipal Code of Chicago ("Code"), to the charges imposed by Inc. (for the products described in the Request, which provide access to certain data and information concerning energy markets (collectively "Data").

Lease Tax Ruling #12 includes the following provision:

Access to materials that are primarily proprietary is ... an exempt use of the provider's computer. The customer may pay a subscription fee for the ability to download or otherwise access the desired information or data, and the subscription fee may allow the customer to use a search function to locate the information or data that the customer wishes to download or otherwise access, but the value of the search function is subordinate to the value of the information or data that the customer wishes to download or otherwise access (*i.e.*, the charge is predominantly for the information or data). This will typically apply in the case of a web site or "app" that allows a subscriber to download or otherwise access materials that are primarily proprietary, such as copyrighted newspapers, newsletters or magazines, that the subscriber would have to purchase if the materials were acquired or accessed through other means, such as a purchase at a "bricks and mortar" store. ¶ 11 (emphasis added).

According to your Request, the Data consists primarily of proprietary information that is gathered and analyzed by . Thus, you state: "Using patented technologies and proprietary algorithms and analytics, provides accurate and timely data on capacities, flow, and utilization." To quote one example, in the case of oil, you state: "Utilizing a combination of data accumulation technologies including infrared diagnostics, electromagnetic field monitors, high resolution and aerial photography, follows the oil supply lifecycle from forecast production to transportation on rail, pipeline, and ships, to its delivery at key refineries or storage facilities."




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Based on these facts, we are of the opinion that [REDACTED] charges are not subject to the Lease Tax.

This opinion is based on the law as of the date of this letter and the facts as represented in your Request being accurate and complete. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to Code Section 3-4-325.

Very truly yours,



Weston W. Hanscom
Deputy Corporation Counsel
(312) 744-9077

cc: Joel Flores, Department of Finance

[REDACTED]

[REDACTED]

[REDACTED]

July 6, 2016

City of Chicago Department of Revenue
Tax Policy Section
Room 300, DePaul Center
333 South State Street
Chicago, Illinois 60604-3977

Re: [REDACTED]

Request for Private Letter Ruling

Dear Sir or Madam:

Due to uncertainties surrounding the potential application of the Chicago Personal Property Lease Transaction Tax, [REDACTED] completed a Voluntary Disclosure Application (VDA) in order to avoid any punitive measures associated with non-compliance in prior years. [REDACTED] is now requesting a Private Letter Ruling that the transactions entered into with Chicago customers represent a de minimis use of [REDACTED] computers and the charge is primarily for the information transferred to the customer or the transactions constitute the provision of proprietary information and are exempt from the Personal Property Lease Transaction Tax pursuant to Mun. Code Sec. 3-32-050(11) ("Exemption 11"). Also see Paragraph 11 of Property Lease Transaction Ruling #12.

The Personal Property Lease Transaction Tax (the Tax or Tax) is assessed on information services as the customer's access to the information via an interface with the service provider is deemed to constitute a use of the service provider's computer equipment within the City. Implicit in the imposition of the tax is the characterization of the access to the information and search features or other functionality provided by the service provider via the interface, which constitutes a use of the service provider's computer equipment, as the "true object" of the transaction. The Ordinance recognizes that in certain situations the value acquired by the service provider's customer is primarily

[REDACTED]

attributable to the information and that the access and/or other functionality constituting the use of the service provider's computer equipment is de minimis in relation to the value of the information acquired i.e., the information is delivered passively; or the information is proprietary and of sufficient value so as to render the access or other functionality subordinate to the information itself.

██████████ is a provider of real-time data and intelligence for commodity and energy markets including power/electricity, oil, natural gas, petrochemical, and agriculture & biofuels. Using patented technologies and proprietary algorithms and analytics, ██████████ provides accurate and timely data on capacities, flow, and utilization. Below is a brief description of the information provided by ██████████ to its customers, which include commodity and energy trading hedge funds, banks, energy producers, as well as numerous government entities. Counted among its customers are ██████████ ██████████

Power/Electricity – Thousands of patented, proprietary monitors deliver real-time information on power plant output, transmission flows, and frequency disruptions throughout the United States and Europe. This data is aggregated by ██████████ whose regional experts and meteorologists use advanced fundamentals based analytics and historic data mining to create daily price and congestion forecasts that allow customers to make informed decisions with respect to the purchase and sale of power, and manage risk. Additionally, ██████████ analysts are in direct contact with customers throughout the day assisting with tailoring forecast results to their individual trading and buying strategies.

Oil - Utilizing a combination of data accumulation technologies including infrared diagnostics, electromagnetic field monitors, high resolution and aerial photography, ██████████ follows the oil supply lifecycle from forecast production to transportation on rail, pipeline, and ships, to its delivery at key refineries or storage facilities. Monitoring coverage includes production and production capacity, storage inventory levels and capacity, and transportation flows. This fundamental data eliminates the need for energy traders, analysts, marketers, and other interested parties to rely on speculation, estimates or delayed public data in formulating their investment strategy, trading strategy, or other decision making.

Natural Gas – Recognizing that there was virtually no visibility into the intrastate movement of natural gas products, ██████████ has developed proprietary monitoring techniques using infrared imaging and patented electro-magnetic field monitors, combined with analytics, to provide visibility into this critical area informing supply and demand. Proprietary information combined with public data allows for insight into the gas markets not otherwise available. Additionally, ██████████ utilizes its propriety data to produce Natural Gas Production Forecasts used by energy traders and analysts.

Petrochemicals & Natural Gas Liquids – [REDACTED] combines observations from visual and infrared cameras with analytics and technological expertise to provide customers with a real time view of what is happening at the facilities of ethylene crackers and fractionators. The monitoring of natural gas liquids pipelines, and the underlying pipeline flow models, allow for never before seen visibility in this industry. Weekly and monthly reports are produced based on acquired data and a production forecast is available to [REDACTED] customers months in advance of government reports.

Agriculture and Biofuels – [REDACTED] provides highly accurate weekly measurements of biofuel/ethanol inventory levels at [REDACTED] ahead of the reports published by the Energy Information Administration. Additionally, [REDACTED] also provides a daily ethanol production monitor report based on indicators such as energy consumption estimates at the production facility.

[REDACTED] customers enter into a subscription agreement with the Company that allows them to access certain information after performing a log-in. Certain product offerings by [REDACTED] provide enhanced capabilities that allow customers to perform one or more of the following:

- View “real-time” data through a web interface, data feeds, or interactive maps.
- Access additional detailed data, such as additional information on a specific power generating facility including history, operations, and ownership, for example.
- Set-up custom alerts for specific data within defined thresholds.
- View real-time data in the form of charts or data grids.
- Search for specific data contained in data grids or maps.
- Define a specific query that can be saved and run on multiple occasions.
- Define specific data feeds to be received.

The capabilities aforementioned all facilitate the presentation and viewing of data accumulated by and/or developed by [REDACTED]. Customers involved with energy trading or risk management often want real-time data as these functions require constant decision making and continuous analysis.

As illustrated by the aforementioned, the information made available to [REDACTED] customers is not merely accumulated from public sources and made available on a subscription basis. [REDACTED] provides its customers with proprietary data based on its data accumulation, in-house analysis, and analytics. The underlying data developed and provided by [REDACTED] is the basis for the pricing decisions, risk management techniques, and market analysis undertaken by [REDACTED] customers. The underlying proprietary data, and not the search functionality or other capabilities with respect to viewing the data, is the “value-added” acquired by customers; the search function or other capabilities

being subordinate to the proprietary data.

Paragraph 11 of Property Lease Transaction Ruling #12 provides that access to materials that are "primarily proprietary" is an exempt use of a provider's computer and accordingly, is not subject to Tax. This appears consistent with the intent to assess tax for transactions where the true object of the transaction is the functionality of the provider's computer hardware. In cases where any functionality is de minimis, subordinate or ancillary to the proprietary information, such transactions are not intended to be subject to Tax. In such cases the principal product acquired is the proprietary information and any functionality associated with accessing or viewing such information is subordinate the value of the information itself. An example is cited of an "app" or web site that allows a subscriber to download or otherwise access materials that are primarily proprietary such as a copyrighted magazine or newspaper that the subscriber would otherwise have to purchase if the materials were acquired by another means. In this case the value of the proprietary information is subordinate to the application that allows for its viewing or download. In the instant case, the information provided by [REDACTED] is unavailable to persons not subscribing to a [REDACTED] product. The cost of a [REDACTED] subscription cannot be attributed to the capability to view or access information in a more efficient or convenient manner than would be otherwise available. The information underlying a [REDACTED] subscription is gathered, accumulated and/or produced by [REDACTED] exclusively for its customers and this proprietary information is what [REDACTED] customers are obtaining through their subscriptions.

Based on the aforementioned, we are requesting a Ruling that the proprietary information provided by [REDACTED] to its customers is not subject to the Chicago Lease Transaction Tax pursuant to Exemption 11 or Paragraph 11 of Property lease Transaction Ruling #12. Should you have any questions regarding this matter or have any reservations about issuing the requested ruling, we would respectfully request a conference with you before any ruling is issued.

If you would like to schedule a conference or if you require any additional information, please contact our representative, [REDACTED].
[REDACTED] Your consideration of this matter is appreciated.

Very truly yours,
[REDACTED]

[REDACTED]