

M e m o r a n d u m**120.1325**

To: Petition Unit (BLM)

Date: July 9, 1990

From: David H. Levine

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ATSS 485-5550Subject: N--- I--- S---
S- -- XX-XXXXXX

This is in response to your memorandum dated April 26, 1990. You ask whether the construction of a mathematical model of "minutiae" derived from the image of a fingerprint is the service of developing original information or the taxable conversion of customer-furnished data from one physical form to another (the information is apparently transferred on tape or disk).

The auditor believes that tax applies to this transaction under Regulation 1502 because the information supplied by the customer is converted into a form usable by the customer's computer. An example of this type of taxable transaction is the conversion of information on tape to the same information on a disk. That is, the conversion from one physical form to another with no change in the actual information.

In this case, the customer provides an actual fingerprint. The taxpayer takes this fingerprint and translates it into a digitalized image of the fingerprint. As Supervising Auditor Michael Fontana explains in the report of his discussion on the disagreed audit:

"During this step a mathematical model of the 'minutiae' for each fingerprint is constructed. 'Minutiae' refers to the location and interrelationship of those critical points within the fingerprint that allow fingerprint matching. This mathematical model of the minutiae as determined during the conversion process did not previously exist within the information supplied by the customer."
(Emphasis added.)

The developing of original information from data furnished by the customer is nontaxable processing of customer-furnished information under subdivision (d)(5) of Regulation 1502. Since that appears to be what happens here, we conclude that N--- performs a nontaxable service.

If you have further questions, feel free to write again.

DHL:wak