



January 23, 2020

By: Email

[Redacted]

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Mayor

Department of Law

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Re: [Redacted] - Private Letter Ruling

Dear [Redacted]

I am writing in response to your letter dated December 7, 2016 ("Request") (copy attached), requesting a private letter ruling ("PLR") concerning the application of the Chicago Personal Property Lease Transaction Tax ("Lease Tax"), Chapter 3-32 of the Municipal Code of Chicago ("Code"), to the [Redacted] ("[Redacted]") and [Redacted] ("[Redacted]") services offered by [Redacted]

Based on the facts set forth in your Request, along with our subsequent communications, including the demonstrations we attended at your offices on March 14, 2019 and October 30, 2019, we agree that the charges for [Redacted] and [Redacted] are not subject to the Lease Tax.

This PLR is based on the text of the Lease Tax ordinance as of the date of this letter and the facts as represented in the Request being true. The opinions contained herein are expressly intended to constitute written advice that may be relied upon pursuant to Code Section 3-4-325. Please be advised, however, that pursuant to Uniform Revenue Procedures Ordinance Ruling #3, Section 12, reliance on written advice in a PLR that is ten or more years old shall be deemed not reasonable unless ratified in writing by the Corporation Counsel's Office.

Very truly yours,

Weston W. Hanscom

cc: Elaine Herman, Department of Finance  
Brian Carlson, Department of Finance



[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED] t  
[REDACTED]

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[REDACTED]

December 7, 2016

Ms. Elaine Herman  
Supervisor of Tax Policy  
Chicago Department of Finance  
333 South State Street, Suite 300  
Chicago, IL 60604-3977

Dear Ms. Herman:

On behalf of our client, [REDACTED], ("Company"), [REDACTED] ([REDACTED]) respectfully requests the Chicago Department of Finance (the "Department") issue a letter ruling ("ruling") with respect to the following factual situation.

The Company is in the business of providing its customers with financial market related information. We are requesting a ruling on behalf of Company as to whether its real-time market information service offerings, [REDACTED] and [REDACTED], are subject to the Personal Property Lease Transaction Tax ("PPLTT"). The Company and [REDACTED] would like to reserve the opportunity to discuss preliminary responses prior to the issuance of conclusions by the Department.

**General Information**

1. Enclosed please find a copy of the Power of Attorney and Declaration of Representative, authorizing [REDACTED] to represent the Company before the Department (attached as Exhibit A). The original Power of Attorney and Declaration of Representative are on file with the Department in conjunction with the ongoing audit.
2. This ruling is not requested with regard to hypothetical or alternative proposed transactions. This ruling is requested to determine the PPLTT consequences of the actual business practices of the Company.
3. The Company has been contacted by the Department regarding the PPLTT.
4. The Company is not currently engaged in litigation with the Department with regard to this or any other tax matter.
5. To the best of the Company's knowledge, the Department has not previously ruled regarding this matter for the Company. In addition, the Company previously has not submitted a letter ruling request for the same or similar issue to the Department.
6. The Company requests deletion of its name, business product names, addresses, locations of facilities, description of facilities, and the name of its representative prior to dissemination to the public.
7. The Company knows of no authority contrary to the authorities referred to and cited below.

[REDACTED]

[REDACTED]

### Statement of Material Facts

Company, through its affiliate [REDACTED], primarily derives revenue by providing their customers with financial market related information. The information can take many forms (stock prices, commodity prices, relating to domestic or foreign entities, for current or historic periods, be market focused or industry focused, etc.) and is continually being updated. Company's clients often buy these information services in bundles. Each bundle contains various information subscription modules, but nearly all bundles contain some kind of real time market price quotation module. Company operates globally and is headquartered outside of Illinois, but maintains an office in the city of Chicago and has subscribers in the city of Chicago. Company licenses very little delivered software as the majority of its revenue is currently derived from provision of information which is accessed remotely by its customers who use their own devices (computers, phones, tablets, etc.) to access content to which they have subscribed.

At issue in the present ruling request are Company's real-time market data service offerings, [REDACTED] and [REDACTED].

[REDACTED] (" [REDACTED] ")

[REDACTED] is a low-latency consolidated global data feed that delivers real-time full tick (price movement), depth-of-market data through the [REDACTED] Data Center. The low latency nature of the feed ensures that customers receive any changes in market position uninterrupted with minimal delay, which helps facilitate high speed trading. Customers also benefit from reduced infrastructure costs. Global consolidated real-time feeds connect users to thousands of exchanges and over-the-counter (OTC) traded markets. [REDACTED] delivers fully managed consolidated feeds from over [REDACTED] exchanges, [REDACTED] OTC traded markets, and includes third party contributed data. [REDACTED] also provides fully managed low latency feeds from major global trading venues. Users can also obtain greater levels of detail, such as millisecond timestamps, short sale indicators, and auction data. This data can be ingested into diverse applications (e.g., trading, investing, algorithmic, systematic, etc.).

Company is the exclusive vendor for several feeds, including [REDACTED] and [REDACTED], [REDACTED] and [REDACTED], and [REDACTED]. The [REDACTED] and [REDACTED] feeds provide foreign exchange data encompassing over [REDACTED] billion per day. These feeds provide coverage on [REDACTED]+ instruments and include exclusive foreign exchange option content. [REDACTED] and [REDACTED] give exclusive real-time corporate bond pricing across over [REDACTED] unique bonds and [REDACTED] instruments prices, covering over [REDACTED]% of the liquid market. [REDACTED] includes data on over [REDACTED]% of daily volume for US treasuries.

[REDACTED]

[REDACTED] is an ultra-low latency feed that delivers data directly from an exchange to a customer's site. The ultra-low latency nature of the feed further reduces delays in users receiving price change information. The service provides an enhanced feed of [REDACTED] prices (foreign exchange data) with reduced latency and information that is not available on [REDACTED]), its standard delivery mechanism. [REDACTED] connects to the Matching platform via existing [REDACTED] technology and allows a customer to use the rates and information as a source of prices for redistribution via their pricing engines

The [REDACTED] API is also used by [REDACTED] which sends orders into [REDACTED]. The enhanced feed of data is provided to enable this. Clients using [REDACTED] but not paying for [REDACTED] are not entitled to use this data for any other purpose than to send orders into [REDACTED].

Subscribing to [REDACTED] allows clients to use this data for various purposes but does not entitle them to use the API to enter orders into [REDACTED].

██████████

Data provided through ██████████ includes data feeds for market quotes, best quotes, volumes, and aggregate prices. "Market quotes"<sup>1</sup> are the best bids and offers in the system regardless of credit whereas "best quotes" are the best bids and offers available to the bank once bilateral credit has been taken into account. Volume data enables a bank to create more sophisticated pricing engines as it shows the liquidity in the market, allowing price spreads to be altered accordingly. Aggregate price displays<sup>2</sup> the lowest bid or highest offer at which the standard quantity can be traded.

██████████ can also be used as the core price source for foreign exchange spot data. The lower latency from ██████████ protects against turning a profit into a large loss in a fast moving market and gives banks greater freedom to use their pricing engines in fast moving markets. Latency benefits will vary depending on market conditions and the user's environment.

Customers can use this data in business activities such as: instrument pricing, programmatic trading, market/credit risk, portfolio management and valuation, and manual instigation of trades by client users through a graphical user interface (GUI) other than ██████████ Matching Service.

### ***Ruling Requested***

On behalf of the Company, we respectfully request the Department to rule that charges for Company's ██████████ ██████████ and ██████████ services are not subject to the PPLTT but instead are exempt as being for information having a fleeting or transitory character.

### **RELEVANT AUTHORITIES**

The Chicago Personal Property Lease Transaction Tax is imposed upon (1) the lease or rental in the City of Chicago of personal property, or (2) the privilege of using in Chicago personal property that is leased or rented outside the city.<sup>3</sup> "Lease' or 'rental' means any transfer of the possession or use of personal property, but not title or ownership, to a user for consideration, whether or not designated as a lease, rental, license or by some other term, and includes a 'nonpossessory lease'."<sup>4</sup> "Use' means the exercise of any right to or power over personal property by a lessee incident to the lease or rental of that property. . . ."<sup>5</sup>

The term lease is broadly defined to include "nonpossessory leases", including "nonpossessory computer leases."<sup>6</sup> The definition of "nonpossessory computer lease" specifies that for purposes of taxation of such leases, "use" of a computer is deemed to occur at the location of the access device used to access the remote computer.<sup>7</sup> Therefore, "if the user's access device is located in the City of Chicago, the Lease Tax applies to all charges for the use of the computer and its software including, but not limited to, the running or execution of computer programs, or the access, input, retrieval, or modification of data or information which are accessed by the user from such device."<sup>8</sup> It is through this Ordinance definition that Chicago asserts its jurisdiction to tax such transactions involving "personal property" which physically resides outside its jurisdictional borders.

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<sup>1</sup> "Market quotes" are the best bids and offers in the system regardless of credit whereas "best quotes" are the best bids and offers available to the bank once bilateral credit has been taken into account.

<sup>2</sup> Aggregate price available from v4.2 (AQ4) onwards.

<sup>3</sup> Chicago Municipal Code §3-32-030(A).

<sup>4</sup> Chicago Municipal Code §3-32-020(I).

<sup>5</sup> Chicago Municipal Code §3-32-020(R).

<sup>6</sup> Chicago Municipal Code §3-32-020(I).

<sup>7</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #9 (effective June 1, 2004).

<sup>8</sup> *Id.*

There are several exemptions to the PPLTT, including nonpossessory leases of a computer "in which the customer's use or control of the provider's computer is de minimis and the related charge is predominantly for information transferred to the customer rather than for the customer's use or control of the computer, such as the nonpossessory lease of a computer to receive either current price quotations or other information having a fleeting or transitory character."<sup>9</sup> ("Exemption 11").

### ***Guidance from prior cases and rulings***

#### ***Ruling Number 3***

In a 2004 tax ruling, the city of Chicago noted that the "lease or rental of personal property includes lease time on personal property not itself rented, such as usage time on a computer, data processing equipment, copying machines, etc."<sup>10</sup> As such, the Department opined that the rental or usage of time on computer software is subject to tax.<sup>11</sup>

#### ***Ruling Number 5***

"For time-sharing purposes (where the possession of the computer is not transferred), the user of the computer shall be deemed using the computer at the location of the user's access terminal to the computer. Therefore, if the user's terminal is within the City, the lease tax will apply to all charges for the use of the computer and its software, which is accessed by the user at such terminal."<sup>12</sup>

#### ***Ruling Number 9***

Personal Property Lease Transaction Tax Ruling 9 provides that the lease or rental of personal property includes "time-sharing and time or other use of a computer with other users, whether or not denominated as such."<sup>13</sup> In these cases, the Ruling notes, "possession of the computer is neither transferred nor intended to be transferred."<sup>14</sup> Instead, "the owner of the computer permits use of the computer through a terminal or other device ("access device") at the user's location for a fee."<sup>15</sup> "Where possession of the computer is not transferred, use of a computer is deemed to occur at the location of the access device used to access the computer. Therefore, if the user's access device is located in the City of Chicago, the lease tax applies to all charges for the use of the computer and its software"<sup>16</sup>

Unless charges for the use of the computer include charges for services performed by the owner's personnel at the time of the transaction, the transaction is considered to involve charges "solely for the use of personal property and not for the sale of a service."<sup>17</sup>

#### ***Ruling Number 12***

Personal Property Lease Transaction Tax Ruling Number 12, effective July 1, 2015, states that:

Passive access to information is an exempt use of the provider's computer. In the case of a stock market ticker tape, where the customer merely receives the one-way dissemination of a scrolling list of current stock prices for a set group of businesses. In that case, the customer's use of the provider's computer is de minimis, as there is no search function (or at most a single infrequent "channel" selection), and the charge is predominantly for information transferred to the customer (in the form of one-way "streaming").<sup>18</sup>

<sup>9</sup> Chicago Municipal Code §3-32-050(11).

<sup>10</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #3, Section 2 (effective June 1, 2004).

<sup>11</sup> *Id.*

<sup>12</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #5, Section 2 (effective Sept. 1, 2013).

<sup>13</sup> City of Chicago Department of Revenue Personal Property Lease Transaction Tax Ruling #9 (effective June 1, 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at (3)(B)

<sup>18</sup> *Id.*

As a general rule “a subscription to an interactive web site will be subject to the lease tax, and will not be exempt even if most or all of the information available on the web site is fleeting or transitory.”<sup>19</sup> This would include, for example, a web site that provides financial research, information and analytical tools.”<sup>20</sup>

Prior to Ruling Number 12, the Department had generally interpreted the reference to “fleeting and transitory” information as exempting certain products that provide financial market data.<sup>21</sup> Ruling Number 12 clarified that such uses are exempt only if the receipt (and any usage) is simply the passive receipt of information.<sup>22</sup> The effects of Ruling Number 12, with regard to its interpretation of what qualifies under the “fleeting or transitory” provision of Exemption 11, are limited to periods on and after January 1, 2016.<sup>23</sup>

#### **Additional Published Guidance**

*Chicago Department of Revenue Information Bulletin: Nonpossessory Computer Leases*

The Bulletin provides additional information concerning Exemption 11.<sup>24</sup> The exemption is narrowly defined and was intended to exempt from the PPLTT only the passive receipt of information, such as a stock ticker. “De minimis” usage means that the information is delivered passively, with a minimum of search or other functionality, except in certain circumstances where the information is predominantly (i.e., primarily) proprietary.<sup>25</sup>

Determining whether a charge is predominately for information is necessarily a fact and circumstances test, and it requires an assessment of the relative value of the information versus the search or other functionality.<sup>26</sup> In most cases, information that is in the public domain will not have sufficient independent value to meet this test.<sup>27</sup>

#### **DISCUSSION AND ANALYSIS**

The City's ordinance provides an example of what constitutes the nonpossessory lease of a computer in which the customer's use or control of the provider's computer is de minimis and the related charge is predominantly for information. The ordinance's example is the nonpossessory lease of a computer to receive either current price quotations or other information having a fleeting or transitory character. Per guidance issued by the department, determining whether a charge is predominantly for information is necessarily a fact and circumstances test, and it requires an assessment of the relative value of the information versus the other functionality.

Both the [REDACTED] and [REDACTED] services provide real-time pushes of financial market information. These feeds contain data (e.g., pricing data) which can change by the millisecond, and are extremely similar to stock tickers. While users can select the feed they wish displayed, the charges are primarily for the information being pushed to the customer rather than any search function. The services provide a passive, one-way dissemination of information which represent the de minimis use of Company's computer. As such, the charges for these services should be considered exempt from the Personal Property Lease Transaction Tax.

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> November 2015 *Information Bulletin: Nonpossessory Computer Leases.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

[REDACTED]

***Conclusion***

We respectfully request that the Department issue a ruling stating that Company's real-time push information service offerings, [REDACTED] and [REDACTED] are not subject to the Personal Property Lease Transaction Tax under Chicago Municipal Code §3-32-030(A).

If the Department cannot make this ruling, we request that the Department contact us at (312) 665-2897 to determine what additional information is required or allow the taxpayer to withdraw this ruling request.

Very truly yours,

[REDACTED]

[REDACTED]

[REDACTED]

Senior Manager



Exhibit A



City of Chicago  
Department of Revenue



Power of Attorney and  
Declaration of Representative

**PART I - Power of Attorney**

Taxpayer(s) name, identifying number, and address including ZIP code (Please type or print)

[Redacted]

hereby appoints [name(s), address(es), including ZIP code(s), telephone number(s) and email address(es) of individual(s)]\*

Please see attached.

as attorney(s)-in-fact to represent the taxpayer(s) before any office of the Chicago Department of Revenue for the following tax matter(s). Specify the type(s) of tax and year(s) or period(s).

Type of Tax	Year(s) or Period(s)
Telecommunications Tax	all open periods
Employer's Expense Tax	all open periods
Personal Property Lease Transaction Tax	all open periods
Use Tax for Non-Titled Personal Property	all open periods

The attorney(s)-in-fact (or either of them) are authorized, subject to revocation, to receive confidential information and to perform any and all acts that the principal(s) can perform with respect to the above specified tax matters (excluding the power to receive refund checks, and the power to sign the return, unless specifically granted below).

Send copies of notices and other written communications addressed to the taxpayer(s) in proceedings involving the above tax matters to:

- 1 [ ] the appointee first named above, or
- 2 [ ✓ ] (names of not more than two of the above named appointees) [Redacted]

Initial here  if you are granting the power to receive, but not to endorse or cash, refund checks for the above tax matters to:

- 3 [ ] the appointee first named above, or
- 4 [ ] (name of one of the above designated appointees)

This power of attorney revokes all earlier powers of attorney and tax information authorizations on file with the Department of Revenue for the same tax matters and years or periods covered by this power of attorney, except for the following:

(Specify to whom granted, date, and address including ZIP code, or refer to attached copies of earlier powers and authorizations.)

Signature of or for taxpayers(s)

(If signed by a corporate officer, partner, or fiduciary on behalf of the taxpayer, I certify that I have the authority to execute this power of attorney on behalf of the taxpayer.)

[Redacted Signature]

(Signature)

ASST. SECRETARY

(Title, if applicable)

7/25/12

(Date)

(Also type or print your name below if signing for a taxpayer who is not an individual.)

[Redacted Name]

(Signature)

(Title, if applicable)

(Date)

\*You must authorize an organization, firm, or partnership to receive confidential information, but your representative must be an individual who must complete part II.





[REDACTED]  
 Audit Case No. 2918  
 Supplement to Power of Attorney

Name	Address	City/State/ZIP	Telephone	Facsimile	Email
<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span> <sup>4</sup>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>
<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>
<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>
<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>	<span style="background-color: black; color: black;">[REDACTED]</span>

Designation	Jurisdiction	Signature	Date
1	6	<span style="background-color: black; color: black;">[REDACTED]</span>	8/16/2012
2	1	<span style="background-color: black; color: black;">[REDACTED]</span>	8/16/12
3		<span style="background-color: black; color: black;">[REDACTED]</span>	8/16/2012
4	1	<span style="background-color: black; color: black;">[REDACTED]</span>	8/16/2012

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