State of New York
Court of Appeals

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NOTICE TO THE BAR

Amicus Curiae Participation

On June 7, 2018, the Court granted leave to appeal in Matter of Wegmans Food Markets v Tax Appeals Tribunal. The appeal is proceeding in the normal course of full briefing and oral argument.

Wegmans Food Markets, Inc. purchased competitive price audits and requested a refund of the sales tax imposed on the purchase pursuant to Tax Law § 1105(c)(1). Tax Law § 1105(c)(1) provides that sales tax may be imposed upon the sale of the service of "collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons." Tax Law § 1105(c)(1) excludes from sales tax, however, "the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons." The Appellate Division (155 AD3d 1352 [2017]) held "[w]hile there is no question that the pricing information . . . collect[ed] on petitioner's behalf is information that is available to the public, we agree with petitioner that, under the circumstances presented here, such information does not derive from a singular, widely accessible common source or database as that test has previously been applied and commonly understood in determining the applicability of the subject tax exclusion" (id. at 1353).

The Court invites amicus curiae participation from those qualified and interested.

Amicus motions must comply with section 500.23 of the Rules of the Court of Appeals. The text of the Rule is available on the Court's internet web site at:

http://www.nycourts.gov/ctapps/500rules.htm

Questions may be directed by telephone to the Clerk's Office at (518) 455-7705.

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