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Business Analysis and Management Services

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Business Analysis and Management Services

Sec. 12-407 (2) (i) (J)-1. Business analysis, business management, business management consulting and business public relations services

(a) **In general.** Section 12-407 (2) (i) (J) of the general statutes defines “sale” and “selling” as including the rendering of business analysis, business management, business management consulting and business public relations services. Said section 12-407 (2) (i) (J) only applies where the business analysis, business management, business management consulting and business public relations services are rendered to a service recipient described in subsection (b) of this regulation. Said section 12-407 (2) (i) (J) does not apply where the person rendering business analysis, business management, business management consulting and business public relations services is a person described in subsection (c) of this regulation. Subsection (d) of this regulation defines the term “business analysis services.” Subsection (e) of this regulation defines the term “business management services.” Subsection (f) of this regulation defines the term “business management consulting services.” Subsection (g) of this regulation defines the term “business public relations services.” Services will not be considered to be business analysis, business management or business management consulting services unless they relate to a service recipient’s core business activities, as defined in subsection (h) of this regulation, or human resource management activities, as defined in subsection (i) of this regulation. While this regulation pertains, for purposes of supplementary interpretation, as the phrase is used in section 12-2 of the general statutes, to said section 12-407 (2) (i) (J), the promulgation of this regulation is authorized by section 12-426 (1) of the general statutes.

(b) **Affected service recipients.** Section 12-407 (2) (i) (J) of the general statutes only applies to the rendering of business analysis, business management, business management consulting and business public relations services to a person, as defined in section 12-407 (1) of the general statutes, that is engaged in business, as defined in section 12-407 (10) of the general statutes.

(c) **Excluded service providers.**

(1) In general. It is the nature of the services being rendered, and not what those services are called or termed by the service provider or service recipient, that determines whether services described in section 12-407 (2) (i) (J) of the general statutes are being rendered. By way of example and not limitation, if a service recipient engages a service provider who is a former employee of the service recipient to render services that the parties refer to as business management consulting services, the fact that the parties so refer to the services rendered does not mean that business management consulting services described in said section 12-407 (2) (i) (J) are being rendered, just as the fact that the parties may not so refer to the services rendered does not mean that business management consulting services are not being rendered. In either instance, the services being rendered must be examined to determine whether those services are business management consulting services, as defined in subsection (f) of this regulation.

(2) **Directors.** Section 12-407 (2) (i) (J) of the general statutes does not apply where the business analysis, business management, business management consulting and business public relations services are rendered by a service provider in such provider’s capacity as a member of the board of directors of the service recipient.

(3) **Professional service providers.** Subject to the provisions of this subdivision, section 12-407 (2) (i) (J) of the general statutes does not apply where the services

rendered are professional services that are rendered by a member of a profession, acting in such member's professional capacity, and that are commonly associated with such profession. The term "profession" means any generally acknowledged professional occupation requiring a degree, license or specialized training, including, but not limited to, the medical, legal, accounting and actuarial professions. Any provision of this subdivision to the contrary notwithstanding, the term "professional services" does not include services commonly known as management advisory services, when rendered by accountants, or human resource management services, when rendered by actuaries.

(d) **Business analysis services.** The term "business analysis services" means and includes the examination of data relating to core business activities, as defined in subsection (h) of this regulation, or human resource management activities, as defined in subsection (i) of this regulation, of a service recipient described in subsection (b) of this regulation, and the formulation of conclusions, and the making of recommendations, based on such examination and relating to such core business activities or such human resource management activities. The term "business analysis services" does not include the valuation or appraisal of property, real or personal, unless such valuation or appraisal is rendered in connection with what are otherwise business analysis services.

(e) **Business management services.** The term "business management services" means and includes the provision of general or specialized day-to-day management of a service recipient's personnel with respect to, or the controlling or directing of, all or a portion of the core business activities, as defined in subsection (h) of this regulation, or human resource management activities, as defined in subsection (i) of this regulation, of a service recipient described in subsection (b) of this regulation. The term "business management services" does not include the rendering of advice to a service recipient that itself retains day-to-day operational control (although the rendering of such advice may be the rendering of business analysis services or business management consulting services) or controlling or directing activities other than the service recipient's core business activities or human resource management activities.

(f) **Business management consulting services.** The term "business management consulting services" means and includes the furnishing of advice and assistance on matters pertaining to the management of core business activities, as defined in subsection (h) of this regulation, or human resource management activities, as defined in subsection (i) of this regulation, of a service recipient described in subsection (b) of this regulation. The term "business management consulting services" does not include specialized consulting services such as insurance and investment banking services.

(g) **Business public relations services.** The term "business public relations services" means and includes the preparation of materials, written or otherwise, that are designed to influence the general public or other groups by promoting the interests of a service recipient described in subsection (b) of this regulation. The term "business public relations services" does not include marketing services, which, in contrast to business public relations services, involve the performance of testing, research or analysis of existing or potential consumer markets in connection with the development of particular products, property, goods or services for sale to others by the service recipient, including consulting in connection therewith. Where the public relations services are rendered to a service recipient not described in subsection (b) of this regulation, see section 12-407 (2) (i) (W) of the general statutes.

(h) **Core business activities.** The term “core business activities” means and includes activities directly related to a service recipient’s lines of business involving sales of products, property, goods or services to others, its capital structure, its budgeting and its short-range, long-range or strategic planning. Activities not generally regarded as directly related to a service recipient’s core business activities include—

(1) the administration of, and recordkeeping relating to, the service recipient’s payroll, employee insurance claims, employee pension funds, employee food service operations and employee health services, including alcohol and drug counseling, regardless of the nature of the business of the service recipient;

(2) the administration of, and recordkeeping relating to, the service recipient’s internal mailroom and delivery functions and its plant and grounds maintenance;

(3) the management of, or consultation regarding, the service recipient’s investments (including those investments over which the service recipient has investment authority), regardless of the nature of the business of the service recipient;

(4) the management of the service recipient’s real property (although such management may be a service described in section 12-407 (2) (i) (I) of the general statutes);

(5) activities principally relating to marketing services, as defined in subsection (g) of this regulation. Where a service provider renders business analysis, business management or business management consulting services that relate to the overall operations of a service recipient, and any marketing services are a minor portion of the services rendered to the service recipient by such service provider, the services will be considered to be wholly business analysis, business management or business management consulting services, as the case may be, related to the service recipient’s core business activities;

(6) activities principally relating to the particular interests of the service recipient’s members, shareholders or partners rather than the service recipient itself, such as proxy solicitation and stock transfers.

(7) the administration of, and recordkeeping related to, insurance claims against a service recipient in its capacity as an insurer; and

(8) the administration of, and recordkeeping related to, self-insured claims, regardless of the nature of the business of the service recipient.

*** (i) Human resource management activities.** The term “human resource management activities” means and includes activities relating to

(1) the hiring, development, job-related training, compensation and management of personnel. The term “human resource management activities” shall not include job-related personnel training services provided by an institution of higher education that is licensed or accredited by the Connecticut Board of Governors of Higher Education pursuant to section 10a-34 of the Connecticut General Statutes.

(2) employee relations, including labor-management relations, collective bargaining, affirmative action programs and

(3) the design and implementation, but not ongoing administration, of employee benefit plans. The term “human resource management activities” shall not include design and implementation of employee benefit plans when performed in connection with insurance service transactions.

(Effective April 23, 1991; amended May 26, 2000)

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