

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-81 (18) S
Sales Tax
September 10, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810424A

On April 4, 1981 a Petition for Advisory Opinion was received from Browning-Ferris Industries of N.Y., Inc., 136 Sicker Road, Latham, New York 12110.

The issue raised is whether or not Petitioner's purchases of refuse collection trucks are subject to sales tax. Petitioner states that the trucks purchased for the collection of refuse cannot be used for any other purpose.

Section 1105(a) of the Tax Law imposes a tax on "The receipts from every retail sale of tangible personal property, except as otherwise provided in this article."

Section 1101(b)(4) of the Tax Law defines the term "retail sales," to include "(i) A sale of tangible personal property to any person for any purpose, other than (A) for resale as such or as a physical component part of tangible personal property, or (B) for use by that person in performing the services subject to tax under paragraphs (1), (2), (3) and (5) of subdivision (c) of section eleven hundred five where the property so sold becomes a physical component part of the property upon which the services are performed or where the property so sold is later actually transferred to the purchaser of the service in conjunction with the performance of the service subject to tax"

While Petitioner uses the trucks in performing a service subject to tax under section 1105(c)(5) of the Tax Law, the trucks are not transferred to Petitioner's customers.

Accordingly, Petitioner's purchase of trucks constitute a retail sale the receipts from which are subject to tax.

DATED: August 25, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau