

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

TSB-A-86(7)S  
Sales Tax  
January 23, 1986

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S850625A

On June 25, 1985, a Petition for Advisory Opinion was received from Robert L. Goodrich and Bruce A. Sahs D/B/A R.L. Goodrich & Company, 682 Eaton Road, Rochester, New York 14617.

The issue raised is whether Petitioner, as lessee, is required to pay State and local sales tax on a fee charged by the lessor in consideration of terminating a lease.

Petitioner currently leases computer equipment under a seven year lease agreement. Fixed monthly payments in the amount of \$1,169 plus applicable State and local sales tax has been paid to the lessor for the past five years. Presently, Petitioner wishes to surrender the equipment to the lessor and terminate the lease agreement. The lessor requires a payment of \$23,824.05 to terminate the lease and give a legal release to Petitioner.

Section 1105(a) of the Tax Law imposes a sales tax on the receipts from every retail sale of tangible personal property with certain limited exceptions. Section 1101(b)(3) of the Tax Law defines the term "receipt" to include the amount of the sales price of any property subject to tax. It is the policy of the Tax Commission that a fee charged for the termination of a lease is includable as part of the receipt subject to tax. Cf. Sales and Use Tax Regulations Section 541.9(c)(1)(i)(c).

Accordingly, Petitioner, as lessee is required to pay state and local sales tax on the lease termination fee paid by it to its lessor.

DATED: January 23, 1986

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth herein.