

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

TSB-A-87(10)S  
Sales Tax  
February 6, 1987

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S861027A

On October 27, 1986, a Petition for Advisory Opinion was received from Richard W. Scott, 6656 Old Thompson Road, Syracuse, New York 13211.

The issue raised is whether the transfer of a motor vehicle by a corporation to an individual under circumstances described below is subject to the sales tax imposed by 1105(a) of the Tax Law.

Petitioner states that his son and daughter-in-law, owners of a corporation, wish to give him a 1984 Chevrolet Suburban which is currently registered in the name of the corporation. Petitioner also states that he is not an officer employee, or a stockholder of the corporation and that the corporation is not in debt to Petitioner. The motor vehicle in question will be transferred to Petitioner for no consideration whatsoever.

Section 1105(a) imposes a tax on "[t]he receipts from every retail sale of tangible personal property...". Section 1101(b)(3) defines "receipts" as "[t]he amount of the sale price of any property and the charge for any service taxable under this article, valued in money, whether received in money or otherwise...". Section 1101(b)(4) defines "retail sale" as "[a] sale of tangible personal property to any person for any purpose, other than for resale as such...". Section 1101(b)(5) defines "sale" as "[a]ny transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this article, for a consideration or any agreement therefor".

The transfer of the motor vehicle to Petitioner as described above is a gift and is not a retail sale as defined in section 1101(b)(4) of the Tax Law. Accordingly, Petitioner is not subject to the tax imposed by section 1105(a) of the Tax Law on such a transfer. In the Matter of Alice A. Greenblatt, Decision of the State Tax Commission, October 3, 1985. TSB-H-85(229)S. However, Petitioner is required to submit an "Affidavit - Gift of Motor Vehicle" (Form ST-170.9) properly completed by the donor as evidence of the exempt nature of the transfer.

DATED: February 6, 1987

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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