

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

TSB-A-88(3)S
Sales Tax
December 3, 1987

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S870728B

On July 28, 1987, a Petition for Advisory Opinion was received from Starlite Display, Inc., 1 Fairchild Court, Plainview, New York, 11803-1701.

The Petitioner creates window and floor displays of the products of liquor distributors at retail liquor stores. This service includes the placement in various forms and designs of liquor bottles owned by the retailer and may include certain materials such as signs and other paper goods provided by the distributor. The Petitioner may also use its own paper goods in the displays. Upon completion of the display, the Petitioner bills the distributor for the service and any supplies used.

The issue raised is whether the Petitioner is required to collect New York sales tax on the amount billed to a customer for the creation of the displays.

Section 1105(c)(3) of the Tax Law imposes a tax on installing tangible personal property. It has been the policy of the Department of Taxation and Finance that the service of creating window displays is taxable because this service constitutes the installation of tangible personal property within the meaning of the statute. The statute does not distinguish between a display comprised mostly of goods held for sale in the regular course of business and other tangible personal property. Accordingly, the fact that the display installed is comprised mostly of goods held for sale in the regular course of business does not alter the result.

If the Petitioner purchases its own supplies which are to be sold to its customer in conjunction with the performance of its service, it may purchase those supplies tax free by using a Resale Certificate (Form ST-120). The supplies purchased must actually be transferred to the customer. If the customer furnishes the Petitioner with the supplies, the customer must pay a tax at the time of purchase.

Accordingly, the Petitioner is required to collect New York sales tax on the amount billed to a customer for the creation of window and floor displays.

DATED: December 3, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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