

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

TSB-A-96 (40)S  
Sales Tax  
July 9, 1996

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO.S960126A

On January 26, 1996, a Petition for Advisory Opinion was received from E.C.E. Enterprises, 23 Timberline Circle, Port Jefferson, New York 11777. Petitioner, E.C.E. Enterprises, provided additional information pertaining to the Petition on April 11, 1996.

The issue raised by Petitioner, E.C.E. Enterprises, is whether, with respect to the sale of printed material, the portion of receipts which reflects overhead costs is subject to the applicable sales and compensating use tax.

Petitioner makes the following submission of facts.

Petitioner purchases a quantity of ten thousand coupons for \$123 and twenty thousand coupons for \$194. Petitioner believes that \$123 represents the printing cost for ten thousand coupons plus overhead. The printing cost element of the total charge (\$123) is believed to be \$71 which is derived by subtracting from the cost of 20 thousand coupons (\$194) the cost of 10 thousand coupons (\$123).

Section 1101(b)(3) of the Sales and Use Tax Law defines "receipt" for purposes of the sales and compensating use tax, as follows:

Receipt. The 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, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts and also including any charges by the vendor to the purchaser for shipping or delivery regardless of whether such charges are separately stated in the written contract, if any, or on the bill rendered to such purchaser and regardless of whether such shipping or delivery is provided by such vendor or a third party, but excluding any credit for tangible personal property accepted in part payment and intended for resale. For special rules governing computation of receipts, see section eleven hundred eleven. (emphasis added)

Section 526.5 of the Sales and Use Tax Regulations provides in part:

Receipt. . . . (a) Definition. The word receipt means the amount of the sale price of any property and the charge for any service taxable under articles 28 and 29 of the Tax Law, valued in money, whether received in money or otherwise.

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(e) Expenses. All expenses, including telephone and telegraph and other service charges, incurred by a vendor in making a sale, regardless of their taxable status and regardless of whether they are billed to a customer are not deductible from the receipts. (emphasis added)

In the present case, Petitioner is purchasing tangible personal property. The cost to Petitioner is the wholesale list price of \$123 per 10,000 coupons or \$194 per 20,000 coupons. The taxable receipt is the amount of the sales price of the property valued in money, whether received in money or otherwise, without any deductions for overhead or other expenses, as stated in Section 1101(b)(4) of the Tax Law and Sections 526.5(a) and (e) of the Sales and Use Tax Regulations. Accordingly, the amount subject to the sales and compensating use tax is the \$123 per 10,000 coupons or \$194 per 20,000 coupons, which includes all the costs of the printer to produce the coupons for sale.

DATED: July 9, 1996

/s/  
JOHN W. BARTLETT  
Deputy Director  
Technical Services Bureau

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