

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

TSB-H-81 (127) S
Sales Tax
July 13, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S801229A

On December 29, 1980 a Petition for Advisory Opinion was received from Ralph B. Humphreys, Tibbitts Road, New Hartford, New York 13413.

The issue raised is whether receipts from the sale of clay field drainage tile to farmers, on an uninstalled basis, for use in draining their fields, is subject to the sales tax imposed under Article 28 of the Tax Law.

Section 1105(a) of the Tax Law, contained in Article 28, imposes a tax on the "...receipts from every retail sale of tangible personal property, except as otherwise provided in this article."

Section 1115(a) (6) of the Tax Law, also contained in Article 28, exempts from such sales tax "Tangible personal property, except property incorporated in a building or structure ... for use or consumption directly and predominantly in the production for sale of tangible personal property by farming, including stock, dairy, poultry, fruit, fur bearing animal, graping and truck farming. The term farming shall also include ranching, operating nurseries, greenhouses, vineyard trellisis or other similar structures used primarily for the raising of agricultural, horticultural, viticultural, vinicultural or floricultural commodities, and operating orchards."

Accordingly, receipts from the retail sale of clay field drainage tile purchased for the purpose of aiding in the production of tangible personal property for sale by farming is exempt from the sales tax imposed under Article 28 of the Tax Law. This exemption is applicable only where the purchaser supplies the vendor with a properly completed Farmer's Exemption Certificate (ST-125).

DATED: June 24, 1981

s/ LOUIS ETLINGER
Deputy Director
Technical Services Bureau