

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

TSB-H-81(85)S
Sales Tax
April 21, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810128B

On January 28, 1981, a Petition for Advisory Opinion was received from J. E. Vanderbilt & Co., Inc., 41 Demarest Avenue, New City, New York 10956.

The issue raised is whether a vendor may collect the 4% State sales tax by utilizing a bracket schedule different from that promulgated by the Tax Commission.

Section 1105 of the Tax Law imposes a statewide sales tax of four per cent. In order to avoid any requirement that tax in an amount measured in fractions of a cent be collected, section 1132(b) of the Tax Law provides, in relevant part, that: . . .(b) The tax commission shall by regulation prescribe a method or methods or a schedule or schedules of the amounts to be collected from customers in respect to any receipt. . .upon which a tax is imposed by this article. . . . Such schedule or schedules may provide that no tax need be collected from the customer upon receipts. . .below a stated sum. . . ." Pursuant to such provision of law, the Tax Commission has promulgated such a regulation, as follows:

"Reg. Sec. 530.14. Four Percent Bracket Schedule. -- The following is applicable where a tax of four percent is imposed: Four percent New York State and combined four percent New York State and local tax

On purchases of one dollar or more, the tax is four per cent of the purchase price. Where the tax to be paid includes a fraction of one cent, the fraction shall not be paid where it is less than one-half cent and a full cent shall be paid where the fraction is one-half cent or more.

On purchases of less than one dollar the following schedule is applicable:

Amount of Sale	Tax to Be Collected
\$0.01 to \$0.12	None
.13 to .33	1¢
.34 to .58	2¢
.59 to .83	3¢
.84 to .99	4¢" 20 NYCRR 530.14.

Inasmuch as the provision of the Sales and Use Tax Regulations set forth above requires the collection of tax according to the schedule set forth therein, and at no other rate, Petitioner must compute tax due at the rate of 4% pursuant to such schedule. The Tax Law contains no provision which would permit a deviation from this requirement.

DATED: April 6, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau

JAMES H. TULLY, JR., COMMISSIONER LOUIS M. JACOBSON, DEPUTY COMMISSIONER
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