

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

TSB-H-81(15)C
Corporation Tax
April 8, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. C801215B

On December 15, 1980, a Petition for Advisory Opinion was received from Cayuga Service, Inc., Drawer C, Lansing, New York 14882.

The issue raised is whether Petitioner is subject to taxation as a transportation corporation under Sections 183 and 184 of the Tax Law, contained in Article 9, or as a business corporation subject to tax under Article 9-A.

Petitioner states that its business consists of arranging for trucking services to be provided by independent truckers for Cargill Salt Company, an unaffiliated concern which owns and operates a salt mine in Lansing, New York. The independent truckers pick up the salt from the Cargill Salt Company and deliver it to the customers. The customers then pay Cargill Salt Company for both the salt and the freight charges. Cargill Salt Company then remits to Petitioner the total amount it collected for the freight charges. Petitioner in turn retains 20% of the total freight charges and remits the remaining 80% to the independent truckers who did the hauling.

Sections 183 and 184 of the Tax Law contained in Article 9, impose a franchise tax on corporations principally engaged in the conduct of a transportation business in this State.

Inasmuch as Petitioner's entire activities consist of the provision of transportation, Petitioner is subject to the Franchise Tax on Transportation and Transmission Corporations and Associations imposed under section 183 of the Tax Law, as well as the additional Franchise Tax imposed on such entities under section 184 of the Tax Law. Curran Funeral Service, Inc. v. Graves, 257 App. Div. 888(1939). Pursuant to §209.4 of the Tax Law corporations so taxable are exempt from the Franchise Tax on Business Corporations imposed under Article 9-A of the Tax Law.

DATED: February 17, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau

JAMES H. TULLY., COMMISSIONER

LOUIS M. JACOBSON, DEPUTY COMMISSIONER

FRANK J. PUCCIA, DIRECTOR

TP-8 (4/80)