

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

TSB-A-81(38)S  
Sales Tax  
October 23, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810728D

On July 28, 1981 a Petition for Advisory Opinion was received from Barry Arnold, 51 Marian Lane, Jericho, New York 11753.

The issue raised is whether sales tax must be collected on the lease of school buses to a transportation service corporation which will use the buses to fulfill contractual obligations to New York City schools and other tax exempt organizations.

Petitioner owns school buses and wishes to lease the vehicles to a transportation corporation located in the State of New York. This corporation will use these buses to render transportation services for certain exempt organizations. Petitioner will be paid by the transportation corporation and not by the exempt organizations.

Section 1105(a) of the Tax Law imposes a tax on: "The receipts from every retail sale of tangible personal property, except as otherwise provided in this article." The Sales and Use Tax Regulations defines the terms "retail sale" or "sale at retail" as: "the sale of tangible personal property to any person for any purpose except as specifically excluded." 20 NYCRR 526.6(a).

Section 1101(b)(5) of the Tax Law defines the terms "sale, selling or purchase" as: "Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this article, for a consideration or any agreement therefor."

Accordingly, Petitioner must collect sales tax on the lease of school buses to a customer who will use such buses to render transportation services.

DATED: October 7, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau