

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

TSB-A-82(20)S
Sales Tax
June 2, 1982

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S820405A

On April 5, 1982 a Petition for Advisory Opinion was received from Arista Enterprises, Inc., 35 Hoffman Avenue, Hauppauge, New York 11787.

The issue raised is whether Petitioner's packaging of manufactured goods constitutes "manufacturing," within the meaning of section 1115(c) of the Tax Law. It is concluded herein that it does not.

Petitioner imports finished electronic parts and other items, packages them in blister packs, plastic bags and other containers and sells the packaged items to distributors and retail stores.

Section 1105(b) of the Tax Law imposes a tax on the receipts from sales, other than for resale, of electricity. Section 1115(c) of the Tax Law provides for an exemption from such tax with respect to the purchase of among other things, "electricity . . . for use or consumption directly and exclusively in the production of tangible personal property . . . for sale, by manufacturing" Similar provisions are applicable under locally imposed sales taxes. No such exemption provision, it should be noted, is applicable to the New York City sales tax on the sale of electricity.

The term "manufacturing" is defined as "the production of tangible personal property that has a different identity from its ingredients." 20 NYCRR 531.2(b). Petitioner's activities do not fall within this definition. The electricity used by Petitioner in the course of its packaging operation is therefore not purchased "for use or consumption . . . in the production of tangible personal property . . . for sale, by manufacturing." Accordingly, the purchase thereof is not exempt from tax under section 1115(c) of the Tax Law or similar provisions applicable to locally imposed sales taxes.

DATED: May 18, 1982

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau