

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

TSB-A-82(23)S  
Sales Tax  
July 15, 1982

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810630B

On June 30, 1981, a Petition for Advisory Opinion was received from Crisray Printing Corp., 154 E. Merrick Road, Freeport, New York 11520.

The issue raised is whether Petitioner is required to collect sales tax on charges to customers for typesetting and plates used by Petitioner in the printing of pharmaceutical labels for its customers.

Petitioner is engaged in the business of printing drug and pharmaceutical labels. To produce these labels Petitioner purchases typesetting and plates from an outside source. When Petitioner performs the initial job for the customer, Petitioner charges separately for the typesetting and plates on the billing to the customer. Petitioner further states that the typesetting and plates become the property of the customer upon payment of the invoice, and that Petitioner retains possession of the typesetting and plates for future printing orders.

Section 1105(a) of the Tax Law imposes a tax on the receipts from retail sales of tangible personal property. The term "retail sale" is defined as a sale for any purpose other than for resale or for certain uses in conjunction with the rendering of certain taxable services. Tax Law, § 1101(b)(4). In the present instance Petitioner's sale of typesetting and plates to its customer subsequent to its use in the fulfillment of a printing order constitutes a retail sale of tangible personal property. The receipts from such sales are subject to tax and Petitioner is required to collect such tax at the time of payment by its customer. An exception to this requirement would arise where its customer presented Petitioner with a properly completed certificate, as provided for under section 1132(c) of the Tax Law, indicating either that the customer is an exempt organization or that the property is being purchased either for resale or for an exempt use. Section 1115(a)(12) of the Tax Law describes such an exempt use, providing for an exemption from sales tax with respect to the purchase of equipment purchased "for use or consumption directly and predominantly in the production of tangible personal property . . . for sale, by manufacturing . . . ." Where its customer purchases the typesetting and plates for use, whether by itself, Petitioner or any other entity, directly and predominantly in the production of tangible personal property for sale (including the production of labels by Petitioner for sale to such customer, where such customer purchases the same for re-sale), the customer may make such purchase (i.e., of the typesetting & plates) without the payment of tax (except for the New York City tax, if the sale takes place within New York City), if at the time of sale it supplies Petitioner with a properly completed Exempt Use Certificate, Form ST-121. See in this regard 20 NYCRR 528.13(c)(5).

DATED: June 30, 1982

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau