

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

TSB-A-83(13)S  
Sales Tax  
March 24, 1983

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S830125B

On January 25, 1983 a Petition for Advisory Opinion was received from Modern Maid Food Products, Inc., 200 Garden City Plaza, Garden City, New York 11530.

The issue raised is whether petitioner has the responsibility for collecting New York State and local sales tax when it sells a company car.

Petitioner is a manufacturer and processor of food products. Petitioner owns cars which are occasionally sold to outside parties or employees. It is Petitioner's contention that as it is not in the business of selling cars, and that because the purchaser is required to pay the sales tax due if he cannot show proof of sales tax payment at the time a vehicle is registered with the New York State Department of Motor Vehicles, it should not be Petitioner's responsibility to collect and remit the sales tax at the time it sells the car.

Retail sales of automobiles are subject to the State sales tax imposed under section 1105(a) of the Tax Law, as well as locally imposed sales taxes. Section 1132(a) of the Tax Law provides that "every person required to collect the tax shall collect the tax from the customer when collecting the price." Section 1131(1) of the Tax Law provides that "persons required to collect tax" includes vendors of tangible personal property. The term "vendor" is defined in section 1101(b)(8)(i)(A) as any person "making sales of tangible personal property or services, the receipts from which are taxed by this article [*viz.*, Article 28 of the Tax Law]". Accordingly, inasmuch as Petitioner makes sales of tangible personal property the receipts from which are subject to tax it is required to collect sales tax. The fact that Petitioner is not primarily in the business of selling cars has no bearing on the issue at hand. Neither is it relevant that tax is required to be paid at the time of registration in those instances where a vendor has failed to fulfill his responsibility to collect and remit the tax due.

DATED: March 7, 1983

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau