

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

TSB-H-81 (113) S  
Sales Tax  
June 5, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810210B

On February 10, 1981 a Petition for Advisory Opinion was received from Duane and Siganoc, Inc., 5 Coursen Way, Morris Plains, New Jersey 07950.

The issue raised is whether New York State Sales Tax should be collected on the sale of a reconditioned coffee roaster which is sold without installation, and on the sale of coffee roasting equipment which is sold installed. In both transactions the equipment will be used to roast coffee which will then be packaged and sold.

Section 1115(a)(12) of the Tax Law provides an exemption from sales tax with respect to "machinery or equipment for use or consumption directly and predominantly in the production of tangible personal property ... for sale, by manufacturing, processing..." A similar exemption applies with respect to local sales taxes (except for New York City's tax, which is imposed under section 1107 of the Tax Law).

Under the provisions of Section 1105-B of the Tax Law, for the period September 1, 1980 through February 28, 1981, the Statewide sales tax rate was reduced to 2% with respect to the services of installing, repairing, maintaining or servicing of machinery or equipment for use or consumption directly and predominantly in the production of tangible personal property for sale. The Statewide sales tax on these services was eliminated as of March 1, 1981. However, these services will continue to be subject to all local sales taxes.

Accordingly, Petitioner's sales of coffee roasters which are sold uninstalled will be exempt from New York State and local sales taxes, except for New York City's tax, provided the purchaser furnishes Petitioner with a properly completed Form ST-121, Exempt Use Certificate. When Petitioner sells a coffee roaster installed, the charge for the roaster will be exempt from New York State and local sales taxes, except for New York City's tax. However, the installation charge will be subject to the Statewide sales tax of 4%, as well as any applicable local sales tax, if the installation occurred prior to September 1, 1980. If the installation occurred during the period September 1, 1980 through February 28, 1981 the installation charge will be subject to the reduced Statewide sales tax rate of 2%, but will be subject to the full local sales tax rate. If the installation occurred on or after March 1, 1981 the installation charge will be exempt from the Statewide sales tax but subject to the full local sales tax rate. In order to enjoy the benefit of the reduced rate and the exemption described here, the purchaser must furnish Petitioner with a properly completed Form ST-121, Exempt Use Certificate. When billing a customer Petitioner should list separately the prices charged for equipment and for installation service. Petitioner must collect the appropriate State and local sales tax on the charge for installation service and, if applicable, the New York City sales tax on the price of the equipment.

DATED: May 21, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau

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JAMES H. TULLY, JR., COMMISSIONER    LOUIS M. JACOBSON, DEPUTY COMMISSIONER  
FRANK J. PUCCIA, DIRECTOR