

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

TSB-H-81(89)S  
Sales Tax  
May 5, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810209A

On February 9, 1981 a Petition for Advisory Opinion was received from People's Oil Co., Inc., 59 Miner Street, Canton, New York 13617.

The issue raised is whether Petitioner must pay sales tax on the rental of credit card imprinters which are not used by Petitioner, but which Petitioner rents to its dealers.

Section 1105 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."

Section 1101(b) of the Tax Law defines the term "Retail sales" as "A sale of tangible personal property to any person for any purpose, other than (A) for resale as such..." and defines "Sale, selling or purchase" as "Any...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...."

In elucidating the sale for resale exclusion the Sales and Use Tax Regulations provide that "Where a person, in the course of his business operations, purchases tangible personal property or services which he intends to sell, either in the form in which purchased, or as a component part of other property or services, the property or services which he has purchased will be considered as purchased for resale and therefore not subject to tax until he has transferred the property to his customer." 20 NYCRR 526.6(c)(1).

The Regulations provide, further, that "A sale for resale will be recognized only if the vendor receives a properly completed resale certificate." 20 NYCRR 526.6(c)(2).

The rental of credit card imprinters to Petitioner is a sale within the meaning of the Tax Law. The renting out of such imprinters by Petitioner to its dealers is also a sale. Tax Law, §1101(b)(5). Since Petitioner rents imprinters from Mobil Oil Corp., in the course of Petitioner's business operations, with the intention of thereupon renting the imprinters to its dealers, the rentals by Petitioner constitute purchases for resale. 20 NYCRR 526.6(c)(1).

The rentals to Petitioner are thus not retail sales and are therefore not subject to the sales tax. Tax Law, §§1101(b)(4) and 1105(a). In order to enjoy the benefit of the sale for resale exclusion Petitioner must present a properly completed resale certificate, Form ST-120, to Mobil Oil Corp., upon renting an imprinter. 20 NYCRR 526.6(c)(2).

DATED: April 20, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau

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JAMES H. TULLY, JR., COMMISSIONER    LOUIS M. JACOBSON, DEPUTY COMMISSIONER  
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