

**New York State Department of Taxation and Finance**  
**Office of Counsel**  
**Advisory Opinion Unit**

TSB-A-15(33)S  
Sales Tax  
July 20, 2015

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S141202A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (Petitioner). Petitioner asks whether its organic juice drinks are subject to New York State and local sales tax. Petitioner also asks if the Department finds the juice drinks not to be taxable, whether the sale of the juice drink along with an insulated bag for a single price, would cause the entire charge to be taxable. We conclude that neither the juice drinks themselves, nor the combination of the juice drink and the bag for a single price, are taxable.

**Facts**

Petitioner makes and sells cold nutritional and cleansing juice drinks. The drinks are made with organic fresh fruits and vegetables, without any additional supplements, and are unpasteurized. The materials are blended, not juiced, so that the fruit and vegetable fiber is retained. A copy of one of Petitioner's product labels was included with the petition. The label lists the contents of the drink, which consists solely of fruits, vegetables and water. The drinks are packed in plastic jugs, delivered in insulating bags and sold for a single price. Each bag is black, is approximately 13" x 10" x 15", and is made from a non-woven fabric filled with an insulating material approximately 2mm thick. The bags have handles, but are not durable; they tear easily at the handles and through the bottom of the bag. Petitioner states that the bags are not intended for reuse.

**Analysis**

Tax Law §1115(a)(1) specifically exempts "food and food products" from sales and use tax, provided the food is sold for human consumption. *See* Tax Law § 1115(a)(1); *see also* TB-ST-525. "Vegetable juices, whether made of a single vegetable, or a combination of vegetables, or a combination of a vegetable and other food product" are exempt from sales tax, provided they consist of at least 70 percent natural fruit or vegetable juice. *See* 20 NYCRR § 528.2(b)(1)(i). From the information provided, it appears that Petitioner's products satisfy this standard. Therefore, Petitioner's fruit and vegetable drinks qualify as food or food products and are exempt from New York State and local sales taxes. *See* Tax Law § 1115(a)(1).

Petitioner also asks whether the sale of the juice drinks along with an insulating bag for a single price would cause the entire charge to be subject to tax. Although the bag comes with the product, it is provided to the customer without charge. The bag is not required to be returned and no "bag deposit" is imposed. The bag is flimsy, and tears easily. While the bag is tangible

