

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

TSB-A-10(13)S  
Sales Tax  
April 7, 2010

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S100204A

Petitioner, [REDACTED], requested an advisory opinion as to whether sales of aloe vera leaves are subject to sales tax.

We conclude that sales of aloe vera leaves, as described below, are exempt from sales tax.

**Facts**

Petitioner purchases aloe vera leaves at grocery stores for consumption. The leaves are cut from the plant prior to being displayed for sale, and are sold in the produce section of grocery stores. Petitioner eats aloe vera leaves regularly, and considers them to be a nutritious source of proteins, vitamins, minerals, enzymes, and polysaccharides.

**Analysis**

Aloe vera is a type of aloe plant. "Aloe" is defined in Webster's Collegiate Dictionary as "any of a large genus of succulent chiefly southern African plants of the lily family with basal leaves and spicate [spiky] flowers." The dried juice of aloe vera leaves may be consumed as a laxative. The gel that may be obtained by cutting open an aloe vera leaf is often used to treat burns or cuts. The Food and Drug Administration (FDA) website contains a number of references to aloe vera as a dietary supplement. The FDA has approved aloe vera as a natural food flavoring. See <http://nccam.nih.gov/health/aloevera/>

In view of the common use of aloe vera leaves for health related purposes, the sale of aloe vera leaves as described above is exempt from sales tax under Tax Law §1115(a)(3) as the sale of a product consumed for the preservation of health. (See 20 NYCRR 528.4(b)(3), which states that "[p]roducts consumed by humans for the preservation of health include other substances used internally or externally, which are not ordinarily considered drugs or medicines.")

It should be noted that sales of potted aloe vera plants are not exempt from sales tax. These sales are subject to tax under Tax Law §1105(a) as sales of tangible personal property.

DATED: April 7, 2010

/S/  
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Jonathan Pessen  
Director of Advisory Opinions  
Office of Counsel

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