

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

TSB-A-13(18)S
Sales Tax
July 15, 2013

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S121217A

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (Petitioner). Petitioner asks whether it must collect sales tax on the electricity it sells at an electric vehicle charging station. We conclude that the unit charge and any fee it charges its customers for the sale of electricity at an electric vehicle charging station is subject to sales tax under Tax Law §1105(b)(1)(A).

Facts

Petitioner owns and operates electric vehicle charging stations in this State. Petitioner charges its customers a per unit fee (based on kilowatt hours) for electricity transferred to its customers' electric vehicles.

Analysis

Section 1105(b)(1)(A) of the Tax Law imposes sales tax on the receipts from every sale of electricity and electric service of whatever nature. Although this tax is generally known as the "consumer's utility tax," the intention of this statute is to tax the enumerated sales and services whether or not rendered by a company subject to regulation as a utility company. The words "of whatever nature" indicate that a broad construction is to be given the terms describing the items taxed. *See* 20 NYCRR §527.2(a)(2).

Accordingly, the Petitioner's per unit charge for electricity for charging an electric vehicle is subject to sales tax under Tax Law § 1105(b).

DATED: July 15, 2013

/S/

DEBORAH R. LIEBMAN
Deputy Counsel

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.