

**New York State Department of Taxation and Finance  
Office of Counsel**

TSB-A-16(24)S  
Sales Tax  
August 26, 2016

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S160201B

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (Petitioner). Petitioner, a commercial dog breeder, asks whether wood shavings purchased and used to bed breeding dogs and their puppies are exempt from sales tax.

We conclude that wood shavings used to bed breeding dogs and their puppies are not exempt from sales tax imposed under Tax Law § 1105(a) because the exemptions under Tax Law §§ 1105-B and 1115(a)(6)(A) of the Tax Law do not apply to dog breeding.

**Facts**

Petitioner is a commercial dog breeder who owns and operates a commercial dog breeding kennel in New York. Petitioner purchases wood shavings to use to bed breeding dogs and their offspring puppies. The puppies are later sold to the general public at retail prices and to dealers at wholesale prices.

**Analysis**

Tax Law § 1105(a) imposes sales tax on “the receipts from every retail sale of tangible personal property, except as otherwise provided in this article.”

Tax Law § 1105-B exempts from sales tax “supplies” used or consumed directly and predominantly in the production of tangible personal property for sale “by manufacturing, processing, generating, assembling, refining, mining or extracting . . . .” However, § 1105-B is quite clear as to the types of production activities that qualify for the exemption; the breeding or raising of animals is not encompassed in those enumerated activities. Accordingly, Petitioner’s purchases of supplies, including woods shavings, that are used for breeding dogs are not exempt from sales tax under § 1105-B.

Tax Law § 1115(a)(6)(A) exempts from sales tax retail sales of tangible personal property used or consumed predominantly in the production for sale of tangible personal property by farming. Section 528.7(b) of the Sales and Use Tax Regulations specifically lists in Example 2 that “[t]he breeding of dogs, cats and other pets or laboratory animals is not farming.” Petitioner’s purchases of tangible personal property, including wood shavings, used for breeding dogs are not exempt from sales tax under Tax Law § 1115(a)(6)(A). Furthermore, we conclude that no other exemption applies to the purchase of wood shavings described here or similar

tangible personal property. Accordingly, Petitioner's purchases at issue are subject to sales tax.

DATED: August 26, 2016

/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.