

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (Petitioner). Petitioner asks whether sales of fabric are eligible for the clothing exemption if the sale is for more than \$110. We conclude that such sales are not exempt from State and local sales tax.

**Facts**

Petitioner sells fabric by the yard, as well as other clothing accessories, such as buttons, thread, zippers, linings, etc. Petitioner does not provide any information about the materials it sells, but contends that customers “purchase fabric costing in excess of \$110 and claim that they will be using the fabric to create multiple garments.” It is assumed that the fabric at issue is purchased by customers as a single unit, and that Petitioner’s sale of such constitutes a “retail sale” pursuant to Tax Law § 1101(b)(4).

**Analysis**

Tax Law § 1105 imposes sales tax on, among other things, retail sales of tangible personal property. *See* Tax Law § 1105(a). Tangible personal property is “[c]orporeal personal property of any nature,” and generally includes the items that Petitioner sells, including fabric. However, receipts from the sale of clothing and footwear for which the receipt or consideration given or contracted to be given is less than one hundred ten dollars per article or pair are exempt from New York State (and, if authorized by a city or county, local) sales tax. *See* Tax Law § 1115(a)(30). *See also Sales and Use Tax Exemption on Clothing, Footwear, and Items Used to Make or Repair Exempt Clothing*, TSB-M-00(1)S. “Clothing and footwear” is defined to include fabric, thread, yarn, buttons, snaps, hooks, zippers and like items that are used or consumed to make or repair clothing, and that become a physical component part of such clothing. *See* Tax Law § 1101(b)(15).

Petitioner sells fabric by the yard, as well as other clothing accessories, such as buttons, thread, zippers, linings, etc. Retail sales of such items are exempt from State (and, if approved, local) sales tax when such items cost less than \$110 per item. Here, however, Petitioner indicates that it sells fabric costing more than \$110. When sold as a single unit, such sales are

not exempt from sales tax, irrespective of whether the fabric's unit cost (i.e., cost per yard.) is less than \$110, or whether the fabric will be used to make multiple items. *See* TSB-A-01(10)S.

DATED: November 24, 2020

/S/  
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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.