

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] [REDACTED] (“Petitioner”). Petitioner asks whether its sales receipts of kero-jet fuel purchased by a licensed Distributor of Kero-Jet Fuel Only (“DOKJO”) are subject to New York State prepaid sales tax. We conclude that sales of kero-jet fuel sold by a licensed Diesel Motor Fuel Distributor to a licensed DOKJO are subject to New York State prepaid sales tax.

Facts

Petitioner is a licensed Diesel Motor Fuel Distributor in this State. Petitioner sells kero-jet fuel to a licensed DOKJO. According to the facts submitted by Petitioner, the kero-jet fuel Petitioner sells to its DOKJO customer will be placed into the tanks of aircrafts. Petitioner states its DOKJO customer is not an airline. Petitioner asks if it can sell kero-jet fuel to its DOKJO customer exempt from prepaid sales tax and accept Form FT-1020, *Exemption Certificate for Certain Taxes Imposed on Diesel Motor Fuel and Propane*, with the first two boxes in part 1 checked in order to document the exemption.

Analysis

Petitioner states that it sells kero-jet fuel to its DOKJO customer and not directly to an airline at retail. The sales tax exemptions in Tax Law §§ 1102(b), 1115(a)(9) and (j) apply to retail sales of fuel to an airline for use in its airplanes. Because Petitioner is selling kero-jet fuel at retail to a DOKJO and not directly to an airline for use in its airplanes, the exemptions provided by Tax Law §§ 1102(b), 1115(a)(9) and (j) are not applicable. Therefore, Petitioner cannot accept Form-1020 from its customer and must pass through the prepaid sales tax. Petitioner should provide its DOKJO purchaser with a properly completed Form FT-1000, *Certificate of Prepayment or Payment of Taxes on Diesel Motor Fuel* or a delivery invoice containing all of the information required in the form’s instructions.

DATED: November 10, 2020

/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.