

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-A-81 (19) S
Sales Tax
September 10, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810410C

On April 10, 1981, a Petition for Advisory Opinion was received from Morrell's Tailors and Furriers, 303 College Avenue, Elmira, New York 14901.

The issue raised is whether sales tax is due on receipts from the sale of uniforms purchased by United States Postal Service employees.

Upon receiving a U.S. Postal Service Employee Uniform Allowance Statement and Employee Identification (Form PS 1961), a Postal Service employee arranges with Petitioner for the purchase of a uniform. The uniform which becomes the property of the employee is delivered to the employee in the manner arranged by him and Petitioner. Petitioner issues a sales invoice in the name of the employee and sends it to the U.S. Postal Service, which pays Petitioner directly for the purchase in behalf of the employee from the employee's allowance account. The U.S. Postal Service does not place purchase orders with Petitioner in these transactions, nor does the U.S. Postal Service enter into formal sales agreements with Petitioner, although it certifies certain vendors as sellers of approved uniforms.

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

Section 1116(a)(2) of the Tax Law provides for an exemption from such tax with respect to purchases by "The United States of America, and any of its agencies and instrumentalities"

Petitioner's sales of uniforms constitute retail sales of tangible personal property. Receipts from these sales are therefore subject to tax under section 1105(a) of the Tax Law, unless they qualify for the exemption provided for under section 1116(a)(2) of the Tax Law. For a sale to qualify for the exemption contained in Section 1116(a)(2) of the Tax Law, a purchase order or contract must be placed with the vendor by the governmental entity, the billing must be prepared in the name of the governmental entity and payment must be made by the governmental entity. (See Technical Services Memorandum TSB-M-78(14)S). Inasmuch as the first of these three conditions is not met in the present instance, the exemption in question is not applicable and Petitioner must collect tax on sales of uniforms to employees of the U.S. Postal Service.

DATED: August 25, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau