

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

TSB-A-81 (20) S
Sales Tax
September 10, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810410A

On April 10, 1981, a Petition for Advisory Opinion was received from Norman Eiger, 11 Frankie Lane, Old Bethpage, New York 11804.

The issues raised by Petitioner are whether sales tax is due on (1) receipts from the rental of movies, and (2) a membership fee which entitles the payor to rent movies at a discounted rate.

Petitioner states that he intends to open a retail store dealing in the rentals of movies. Petitioner will set up a "membership list" of customers who, upon payment of a membership fee, will be permitted to rent movies at a lower price than that available to non-members.

Section 1105(a) of the Tax Law imposes the State sales tax on the ". . . receipts from every retail sale of tangible personal property" The term "sale" is defined, in Section 1101(b)(5) of the Tax Law, to include rentals. Accordingly, Petitioner's receipts from the rental of movies are subject to sales tax.

The membership fee is not a receipt from a sale of tangible personal property. It is, rather, a payment for the right to make certain purchases at a discount. Such membership fee is, accordingly, not subject to tax.

DATED: August 25, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau