

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

TSB-A-81(25)S  
Sales Tax  
September 24, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810622B

On June 22, 1981, a Petition for Advisory Opinion was received from Young Contracting Corp., 2501 Third Avenue, Bronx, New York 10451.

The issue raised is whether the removal of construction rubbish from premises where demolition and alterations were made is subject to state and local sales tax.

Petitioner has been collecting sales tax on charges to customers for removing debris from construction sites. Petitioner has been informed by several customers that, as a result of a recent decision by the Supreme Court of the State of New York, tax is not due on charges for these services.

Section 527.7(b)(2) of the Sales and Use Tax Regulations states, in part: "All services of . . . debris removal are taxable, whether from . . . a construction site or vacant land.

Example 3: A contractor who is erecting a building engages a carter to haul away the debris resulting from the construction activities. The charges paid to the carter are taxable."

The decision of the State Supreme Court to which Petitioner refers is being appealed by the State Tax Commission. Pending the outcome of the appeal, the Department's position remains as stated in Section 527.7(b)(2) of the Sales Tax and Use Tax Regulations. Accordingly, Petitioner's charges to customers for debris removal are subject to State and local sales tax.

DATED: August 31, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau