

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

TSB-A-81(6)S
Sales Tax
August 7, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810401C

On April 1, 1981 a Petition for Advisory Opinion was received from Grant Hardware Company, Division of Buildex Inc., High Street, West Nyack, New York 10994.

The issue raised is whether Petitioner's cost of modifying dies used in manufacturing is subject to sales tax.

Petitioner owns dies having useful lives in excess of 4 years. The dies are used, in Petitioner's manufacturing process, to produce parts. When Petitioner designs a new product or modifies an existing product, Petitioner will customarily have an existing die modified or changed. The useful life of the "new" die will be in excess of 4 years.

Section 1105(c)(2) of the Tax Law imposes a tax on receipts from the service of "Producing, fabricating, processing, printing or imprinting tangible personal property, performed for a person who directly or indirectly furnishes the tangible personal property, not purchased by him for resale, upon which such services are performed."

The term "processing" is defined in the Sales and Use Tax Regulations as follows: "Processing is the performance of any service on tangible personal property which effects a change in the nature, shape or form of the property." 20 NYCRR 531.2(e).

In accordance with the foregoing, receipts from the sale to Petitioner of the service of modifying its dies are subject to tax pursuant to Section 1105(c)(2) of the Tax Law.

DATED: July 23, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau