

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

TSB-A-82(8)S  
Sales Tax  
February 10, 1982

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S811014A

On October 14, 1981, a Petition for Advisory Opinion was received from Livingston Moving & Storage, Inc., 533 LeRay Street, Watertown, New York 13601.

Petitioner provides a trash removal service in the course of which it is required to pay, and passes on to its customers, a dumping fee for use of a municipal landfill. The issue raised here is whether sales tax is due on that portion of Petitioner's charge to its customer representing reimbursement for such dumping fee.

Receipts from the service of trash removal are subject to a sales tax imposed under section 1105(c)(5) of the Tax Law. The term "receipts" is defined in section 1101(b)(3) of the Tax Law as ". . . the charge for any service taxable under this article . . . without any deduction for expenses . . ." (emphasis added). The Sales and Use Tax Regulations provide in pertinent part, as follows:

"(e) Expenses. All expenses incurred by a vendor in making a sale, regardless of their taxable status and regardless of whether they are billed to a customer are not deductible from the receipts." 20 NYCRR 526.5.

The dumping fee paid by Petitioner constitutes an expense "incurred by a vendor in making a sale," within the meaning and intent of the above-quoted regulation. Accordingly, Petitioner is required to collect sales tax on its entire charge to its customer, including both that portion labeled "Rubbish Removal" and that portion labeled "Dumping Fee."

DATED: January 25, 1982

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau