

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

TSB-A-82(9)S  
Sales Tax  
March 9, 1982

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S811125A

On November 25, 1981, a Petition for Advisory Opinion was received from Poloron Homes of Penn., Inc., 79 Ridge Road, Middleburg, Pennsylvania 17842.

The issue raised is the proper basis for computing the sales tax required to be collected by Petitioner on its sales of modular homes in New York.

Petitioner is engaged in the business of selling modular homes on a wholesale, uninstalled basis. Petitioner collects sales tax from its customers, using as a tax base an amount equal to 62% of the selling price, which purportedly represents the cost to Petitioner of the materials used in manufacturing the modular homes.

Section 1105(a) of the Tax Law imposes a sales tax on the receipts from retail sales. The term "retail sale" is defined to include:

". . . a sale of any tangible personal property to a contractor, subcontractor or repairman for use or consumption in erecting structures or buildings, or building on, or otherwise adding to, altering, improving, maintaining, servicing or repairing real property, property or land; as the terms real property, property or land are defined in the real property tax law, . . . regardless of whether the tangible personal property is to be resold as such before it is so used or consumed." Tax Law, § 1101(b)(4).

Section 1101(b)(3) of the Tax Law defines the term "receipt" as the ". . . amount of the sale price of any property . . . ."

Petitioner's sales of modular homes constitute retail sales of tangible personal property. As such, the receipts from these sales are subject to tax. Tax Law, §§1101(b)(4), 1105(a). The amount of taxable receipts is equal to the sale price of the modular homes, and not the cost of the component parts thereof. Tax Law, §1101(b)(3). Cf., Anthony J. Brown D/B/A Tony Brown Quality Homes, Tax Commission Decision, January 9, 1981, TSB-H-81(19)S. Petitioner, therefore, must use the sale price of the modular homes as the tax base in computing the sales and use tax required to be collected.

DATED: February 9, 1982

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau