

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

TSB-A-86(20)S
Sales Tax
May 28, 1986

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S850603A

On June 23, 1985, a Petition for Advisory Opinion was received from Casabonne Bros., Inc., 70 123rd Street, Troy, New York 12182.

The issue raised is the extent to which tangible personal property and labor costs are exempt from the sales and use taxes imposed under Articles 28 and 29 of the Tax Law when incorporated into a structure partially funded by an Industrial Development Agency (IDA).

Section 874 of the General Municipal Law provides with respect to Industrial Development Agencies that "(1) It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities. (2) Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the agency, shall be exempt from taxation, except for transfer and estate taxes."

Accordingly, no sales or use tax is imposed upon any tangible personal property incorporated into or used upon or within any project financed in whole or in part by industrial development bonds whether such tangible personal property retains its identity or becomes part of the real property as long as such tangible personal property becomes the property of the IDA and regardless of whether such tangible personal property was purchased with industrial development bond proceeds or by any other funds. (Wegmans v. Dept. of Taxation and Finance, 126 Misc. 2d 144 (1984), *aff'd*, 497 NY Supp 2d 790 (1985), *lv denied*, ___ NY ___ (April 1, 1986).

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Moreover, labor costs for the services of installing tangible personal property owned by an IDA in connection with an IDA financed project are not subject to tax, whether or not the installation results in a capital improvement and whether or not such services and such property are actually purchased with industrial development bond proceeds in whole or in part.

DATED: May 28, 1986

s/FRANK J. PUCCIA
Director
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions
are limited to the facts set forth therein.