

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

TSB-A-87(7)S
Sales Tax
January 26, 1987

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S861119A

On November 19, 1986, a Petition for Advisory Opinion was received from Peter Knych, 25 Rowley St., Rochester, New York 14607.

Petitioner, who sells tangible personal property through the mail, asks if he must collect New York State sales tax when he sells his product to a Vermont resident who instructs him to deliver his product to a New York State address and if he must collect New York State sales tax when he sells his product to a New York resident who instructs him to deliver his product to a Vermont address.

Section 525.2(a)(3) of the sales tax regulations states that:

The sales tax is a 'destination tax,' that is, the point of delivery or the point at which possession is transferred by the vendor to the purchaser or designee controls both the tax incident and the tax rate. (20 NYCRR 525.2(a)(3)).

Thus, a taxable sale occurs when delivery is made to an address within New York State regardless of the state of residence of the purchaser. Moreover, when delivery is made to an address outside of New York State, the sale is deemed to take place at the point of delivery and no New York sales tax would be imposed regardless of the state of residence of the purchaser.

Accordingly, when Petitioner mails his product to a New York address, he is required to collect both the New York State sales tax and any local sales tax that may be in effect in the locality to which he mails his product. There is no New York sales tax applicable to sales that are mailed to addresses outside of New York State.

DATED: January 26, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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