

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

TSB-A-90 (20) S  
Sales Tax  
April 16, 1990

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S891205D

On December 5, 1989, a Petition for Advisory Opinion was received from Marisol Inc., 125 Factory Lane, Middlesex, New Jersey 08846.

The issue raised by Petitioner, Marisol, Inc., is whether the service of removing certain materials from New York to New Jersey and processing such materials is subject to sales tax.

Petitioner is a solvent recycler. It picks up, either in its own trucks or trucks subcontracted to it, only recycleable materials from sites in New York State. It transports these materials to its processing facilities in New Jersey. Petitioner uses methods such as distillation, fractionation, blending, filtering and drying to recover from said materials a product which it then sells. Petitioner charges its customers for the service of removing the solvents from their property.

Section 1105(c)(5) of the Tax Law imposes a tax upon the receipts from the services of "maintaining, servicing or repairing real property...." Section 527.7(b)(2) of the Sales and Use Tax Regulations states that: services of trash, garbage or debris removal are taxable, whether from inside or outside of a building, a construction site or vacant land."

Petitioner's charge is for removing certain material from the real property of it's customers and therefore such charge falls within the scope of Section 1105(c)(5) of the Tax Law. Since the tax being imposed is upon servicing real property, it is immaterial that the material being picked up is recyclable or that it is delivered outside of New York State. When servicing real property, it is the location of the real property that controls the tax rate.

DATED: April 16, 1990

s/PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

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