

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

TSB-A-94 (40)S
Sales Tax
September 9, 1994

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S940615B

On June 15, 1994, a Petition for Advisory Opinion was received from Galasso Trucking, Inc., 2 Galasso Place, Maspeth, New York 11378.

The issue raised by petitioner, Galasso Trucking Inc., is whether certain transportation charges become subject to sales tax when they are provided in conjunction with taxable storage charges.

Petitioner's primary business activity is the transportation of tangible personal property from one location to another. In conjunction with its transportation services, Petitioner provides temporary "in-transit" storage services. Petitioner stores tangible personal property for a specific period of time or until notified by its customers when and where such goods are to be delivered. Often, the Petitioner is hired to transport goods that have an undetermined delivery date. In such instances the goods are picked up and temporarily stored until the Petitioner is notified by the customer as to when to make delivery.

Petitioner generally bills its customers on a monthly basis. A bill typically reflects separate charges for transportation, packaging, hauling and storage services rendered for that billing period. When a bill reflects a charge for in-transit storage, Petitioner considers these services to be incidental to the transportation service and not subject to sales tax.

Section 1101(b)(3) of the Tax Law defines receipt as "The amount of the sale price of any property and the charge for any service taxable under this article, valued in money, whether received in money or otherwise,. . . including any charges by the vendor to the purchaser for shipping or delivery regardless of whether such charges are separately stated in the written contract, if any. . .

Section 1105(c)(4) of the Tax Law imposes sales tax upon "Storing all tangible personal property not held for sale in the regular course of business and the rental of safe deposit boxes or similar space."

Section 527.1(b) of the Sales and Use Tax Regulations provides that "When tangible personal property, composed of taxable and exempt items is sold as a single unit, the tax shall be collected on the total price."

Since sales tax is not specifically imposed on transportation services, delivery services purchased by a customer directly from someone other than the vendor of the taxable property or services to be delivered are not subject to sales tax under Section 1101(b)(3) of the Tax Law, unless the charges for the delivery services are included on the vendor's bill to the customer.

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Storage in-transit is recognized as being incidental to the transportation service and not subject to sales tax only where the period of such storage does not exceed thirty (30) days. If the period of storage does exceed 30 days, the storage charge for the full period is taxable under Section 1105(c)(4) of the Tax Law. (TSB-M-82(22)S).

Accordingly, charges by Petitioner for transportation services, where the in-transit storage of the goods being transported does not exceed 30 days, will not be subject to sales tax. Likewise, such charges by Petitioner for transportation services of in-transit goods, where the goods are stored in excess of 30 days will not be subject to sales tax provided Petitioner separately states the charge for the taxable storage services on its invoice.

If Petitioner does not separately state its taxable charges, its entire charge will become subject to sales tax as indicated by Section 527.1(b) of the Sales and Use Tax Regulations.

DATED: September 9, 1994

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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