

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

TSB-H-80 (155) S
Sales Tax
August 18, 1980

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION #S800325A

On March 25, 1980, a Petition for Advisory Opinion was received from General Aerospace Materials Corporation, 95 East Bethpage Road, Plainview, New York 11803.

The issue raised is whether receipts from the rental of a slitting machine used by Petitioner to cut metal coils to its customers' specifications would be subject to tax under Article 28 of the Tax Law. Article 28 of the Tax Law imposes New York's sales and compensating use taxes.

Petitioner is a distributor of aluminum, stainless steel and other products. Petitioner receives large coils of metal to which it applies various processes in order to transform the same into a product which it sells. The product being sold is processed in one or more of the following ways:

1. heat treated to make the metal either harder or softer
2. material is anodized
3. flattened and recoiled to specific sizes and weights
4. round edged
5. painted to color
6. circled and blanked
7. vinyl and paper protected.

A rented slitting machine is then used to cut the large coils of metal so as to produce smaller coils in accordance with its customers' specifications. The foregoing processes are necessary to render the coils suitable for use by the ultimate consumer.

Section 1105(a) of the Tax Law imposes a tax on the receipts from the rental of tangible personal property. However, section 1115(a) (12) of the Tax Law provides for an exemption from such tax with respect to machinery "... for use ... directly and predominantly in the production of tangible personal property ... for sale ... by ... processing" Processing is defined in the Sales and Use Tax Regulations as "... the performance of any service on tangible personal property which effects a change in the nature, shape or form of the property." 20 NYCRR531.2(e)

The machine in question is used directly in the production of tangible personal property for sale, by means of processing. It is understood from Petitioner's description that the machine is used predominantly, if not exclusively, for such purposes.

Accordingly, receipts from the rental of the slitting machine used by Petitioner in the manner described above are exempt from the New York State 4% sales and use tax and any sales and use tax imposed by a locality outside of New York City.

Dated: July 28, 1980

s/ LOUIS ETLINGER
Deputy Director
Technical Services Bureau