

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

TSB-H-80 (238) S
Sales Tax
December 5, 1980

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S800711A

On July 11, 1980, a Petition for Advisory Opinion was received from Island Leasing Corp., 123 Frost Street, Westbury, New York 11590.

The issue raised is whether the amount of the receipts subject to sales tax on certain truck leases includes separate billings for interest.

Petitioner leases trucks to persons in New York State. Pursuant to certain of its leases Petitioner bills the lessee not only at a fixed rate plus a mileage rate, but also for interest expenses associated with the leased vehicle, such charges for interest augmented by a 10% profit factor.

Section 1105(a) of the Tax Law imposes a tax on "The receipts from every retail sale of tangible personal property...." Section 1101(b)(5) of the Tax Law defines the term "sale" to include "Any... rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration...."

The Sales and Use Tax Regulations define the term "receipt" to mean "(a)... the amount of the sale price of any property and the charge for any service taxable under articles 28 and 29 of the Tax Law, valued in money, whether received in money or otherwise... (e) All expenses incurred by a vendor in making a sale, regardless of their status and regardless of whether they are billed to a customer are not deductible from the receipt...." 20 NYCRR 526.5(a) and (e)

It follows from the foregoing that the portion of the rental payments which is related to interest expenses constitutes receipts from a retail sale (viz. a lease or rental) of tangible personal property, and are thus subject to tax under section 1105(a) of the Tax Law.

Accordingly, Petitioner is advised that the appropriate sales tax must be collected on separately billed charges for interest, including the 10% profit factor, constituting a component part of rental payments made pursuant to the truck leases described in this Advisory Opinion.

DATED: November 18, 1980

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau