

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

TSB-H-80-(98)S
Sales Tax
June 5, 1980

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S800131A

On January 31, 1980, a Petition for Advisory Opinion was received from the Chandler Machine Sales Co., Inc., 2473 Grand Avenue, Baldwin, NY 11510.

The issue raised is whether or not a purchaser claiming exemption from the sales or use tax on the purchase of replacement parts for machinery and equipment must, in addition to the issuance of a properly completed exemption document, also advise the vendor whether the parts will or will not have a useful life of more than one year.

Chandler Machine Sales Co., Inc. sells replacement parts for machinery and equipment. The useful life of such parts varies widely depending upon many factors. Chandler Machine Sales Co., Inc. has received an Exempt Use Certificate (ST-121) from its customer, indicating that the parts have a useful life of more than one year.

Section 1115(a)(12) provides an exemption for "Machinery or equipment for use or consumption directly and predominantly in the production of tangible personal property, ...for sale...but not including parts with a useful life of one year or less...."

Section 1132(c) provides that "...Unless a vendor shall have taken from the purchaser a certificate in such form as the tax commission may prescribe, signed by the purchaser and setting forth his name and address and, except as otherwise provided by regulation of the tax commission, the number of his registration certificate, together with such other information as said commission may require, to the effect that the property or service was purchased for resale or for some use by reason of which the sale is exempt from tax under the provisions of section 1115...shall be deemed a taxable sale at retail...."

Section 528.13(a)(5) of the Sales and Use Tax Regulations states that an Exempt Use Certificate (ST-121) is used to make purchases eligible for this exemption without payment of sales tax.

The Sales Tax Law requires that a vendor collect tax on all sales unless he has received a properly completed exemption certificate from his customer. In this case, since an exempt use certificate is tendered indicating that the parts will have a useful life of more than one year, the vendor does not have to investigate the transaction beyond the facts stated on the exemption certificate. Any liability for the tax, caused by the improper use of the certificate, will be the responsibility of the purchaser issuing the certificate.

Accordingly, since Chandler Machine Sales Co., Inc. has received an Exempt Use Certificate from its customer, indicating that the parts for machinery and equipment will have a useful life of more than one year, the Exempt Use Certificate may be accepted in lieu of collecting the sales tax. Chandler Machine Sales Co., Inc. has no liability for the tax if the certificate is improperly used by its customers.

Dated: April 4, 1980

s/MICHAEL ALEXANDER
Deputy Director
Technical Services Bureau