

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

TSB-H-81 (128) S
Sales Tax
July 13, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S801229A

On April 8, 1981, a Petition for Advisory Opinion was received from the Beneficial Oil Company, Inc., 3365 Riverside Drive, Oceanside, New York 11572.

The issue raised is whether or not Petitioner is required to file its sales and use tax returns on a monthly basis.

Petitioner is a retail fuel oil dealer. Petitioner asserts that the escalating price of fuel oil has increased its taxable sales, while at the same time reductions in the sales tax rate for home heating fuel have decreased the amounts of sales tax collected. Petitioner has submitted a table of taxable sales, by quarters, for the period December 1, 1979 through February 28, 1981. Such table indicates that during this period taxable sales exceeded \$300,000.00 for only one quarter, that ended February 28, 1981.

Section 1136(a) of the Tax Law provides that "Every person required to register with the tax commission as provided in section eleven hundred thirty four whose taxable receipts ... total three hundred thousand dollars or more in any quarter of the preceding four quarters shall, in addition to filing a quarterly return, file either, a long-form or short-form, part quarterly return monthly with the tax commission."

The requirement of monthly filing is based on a vendor's taxable receipts, not the amount of tax collected. Consequently, because Petitioner's taxable receipts totaled more than three hundred thousand dollars for the quarter ending February 28, 1981, Petitioner must continue to file monthly sales and use tax returns for at least the next succeeding four quarters.

DATED: June 23, 1981

s/ LOUIS ETLINGER
Deputy Director
Technical Services Bureau