

APPLICATION OF NEW YORK STATE AND
LOCAL SALES TAX TO GOODS AND SERVICES
SOLD TO PERSONS RECEIVING PUBLIC ASSISTANCE

New York State and Local Sales and Use Tax Law, section 1116(a)(1), exempts from tax any sale made to the State of New York, or any of its political subdivisions (cities, counties, etc.) hereinafter referred to as "State".

In order for a sale to qualify for the exemption contained in section 1116(a) (1) of the Tax Law, it must have all three of the following elements:

- A. An order for goods or services must be placed by the "State"; AND
- B. The bill for the goods or services must be prepared in the name of the "State"; AND
- C. Payment for the goods or services must be made by the "State".

The following illustrations demonstrate how goods are sold to persons receiving public assistance. The illustrations deal with the sale of fuel oil, but the principles are equally applicable to all sales of goods and services (e.g. furniture, appliances, clothing, utility services, etc.) sold to persons receiving public assistance:

Transaction:

Jones Fuel Co. contracts with the County Social Services Department for the sale of 100 gallons of fuel oil to be delivered to Mr. Smith. The fuel oil is delivered and Jones Fuel Co. bills the County, which pays for the fuel oil delivered to Mr. Smith.

Determination:

Jones Fuel Company's sale of fuel oil is a sale to the County. The County Social Services Department ordered, was billed, and paid for the fuel oil. Accordingly, no tax is due. The governmental purchase order given to Jones Fuel Company must be retained by him for a three year period to substantiate that no tax was due on the sale.

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Transaction:

Jones Fuel Co. agrees to sell Mr. Smith 100 gallons of fuel oil. The fuel oil is delivered and Mr. Smith is billed. Shortly thereafter Mr. Smith applies for assistance from the County Social Services Department. The County pays Jones Fuel Co. for the fuel oil sold Mr. Smith.

Determination:

Jones Fuel Company's sale is to Mr. Smith who ordered and was billed for the fuel, even though the County Social Services Department paid for it. New York Sales and Use Tax Law, section 1105, imposes sales tax on tangible personal property, utility services and other select services. Consequently, Jones Fuel Company is required to collect the appropriate sales tax on this sale and remit it to the State Tax Commission.

Questions arising from transactions with persons receiving public assistance which are not answered by this bulletin may be referred to the Taxpayer Service Division. The Division maintains several branch offices and is centrally organized in Albany. The main office may be contacted by phoning (518) 457-2780 or writing:

Taxpayer Services Division
Bldg. No. 9
The State Campus
Albany, N.Y. 12227