

**New York State Department of Taxation and Finance
Office of Counsel**

TSB-A-17(7)S
Sales Tax
May 1, 2017

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION PETITION NO. S151005C

The Department of Taxation and Finance (“the Department”) received a Petition for Advisory Opinion from [REDACTED] (hereinafter “Petitioner”). Petitioner asks whether a student club (which is an exempt organization for New York sales tax purposes) that solicits monetary donations for the purchase of books for children must report the funds collected on quarterly sales tax returns.

We conclude that, because the student club is only soliciting donations for the purchase of the books and is not actually selling any books, the club does not need to report the funds collected on sales tax returns.

Facts

Petitioner is a public school district located in New York. A student club in Petitioner’s school district proposes to participate in a charitable fundraiser with a local charity that is an exempt Internal Revenue Code §501(c)(3) organization. This charity provides books for children. The student club would distribute to potential donors a form listing children’s book titles and the corresponding cost for each book. A donor then completes the form by selecting the books he or she wishes to donate and forwards the form and payment to the student club. The club forwards the forms and collected payments to the charity to buy the books and distribute to recipients.

Analysis

Here, the student club is not purchasing or selling books, but only soliciting donations from various donors. The club then remits the monetary donations to the charity, which purchases books with the funds received. The donations received by the club are not subject to sales tax as no sale of tangible personal property has occurred. Tax Law Section 1101(b)(4). The charity, to which the donations are forwarded, is the purchaser of the books.

Therefore, the student club does not need to report any of the donations/funds collected on sales tax returns.

DATED: May 1, 2017

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Deputy Counsel

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.