

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

TSB-A-81(33)S
Sales Tax
October 19, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810601A

On June 1, 1981 a Petition for Advisory Opinion was received from Mohawk Dental Supply Company, Inc., 417 Court Street, Utica, New York 13502.

The issue raised is whether Petitioner's receipt of a letter from a customer, stating that the customer does not want to be charged sales tax on any purchases, relieves Petitioner of liability for collecting the tax on sales of taxable items.

Petitioner sells taxable and non-taxable items to dental laboratories. Petitioner has received resale certificates from various laboratories. Some laboratories have submitted letters to Petitioner stating that they do not want to be charged sales tax on any purchases.

Section 1132(c) of the Tax Law states, in part:

"For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts for property or services of any type mentioned in subdivisions (a), (b), (c) and (d) of section eleven hundred five . . . are subject to tax until the contrary is established, and the burden of proving that any receipt . . . is not taxable hereunder shall be upon the person required to collect tax or the customer. Unless (1) 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, . . . 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 eleven hundred fifteen, . . . the sale shall be deemed a taxable sale at retail."

Accordingly, Petitioner must collect sales tax on sales of taxable items unless the customer has furnished a properly completed exemption certificate in a form prescribed by the Tax Commission. A letter from a customer requesting relief from sales tax does not constitute a certificate in a form prescribed by the Tax Commission.

DATED: September 29, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau