

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

TSB-A-84 (4) S
Sales Tax
February 21, 1984

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S830909B

On September 9, 1983 a Petition for Advisory Opinion was received from Clarkson College of Technology, Potsdam, N.Y. 13676.

The issue raised is whether the relinquishing of a \$200.00 "Maintenance Deposit" in lieu of returning a personal computer for the refund of such deposit results in a sale the receipts from which are subject to sales tax.

Petitioner has recently commenced a program of assigning a personal computer to each incoming freshman student, financing this operation by tuition increases. The computers remain the property of Petitioner throughout the student's attendance at Clarkson. Petitioner requires each individual student to make a maintenance deposit of \$200.00. Any charges for repairs to a student's computer will be applied against such maintenance deposit, and are to be replaced by the student, in order to maintain a \$200.00 balance in such account.

When a student graduates, Petitioner declares the value of that student's computer and its software to be \$200.00. At that point the student has the option of returning the equipment for a refund of the maintenance deposit, or of forfeiting the maintenance deposit in return for title to the equipment.

Section 1116(a)(4) of the Tax Law exempts from sales tax the receipts from sales by certain educational institutions, in which class Petitioner is included, except where such sales are made in a shop or store operated by such institution. The sales at issue herein clearly do not occur in such a shop or store. Accordingly, no sales tax is due on the receipts from such sales.

DATED: February 2, 1984

s/FRANK J. PUCCIA
Director
Technical Services Bureau