

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

TSB-A-85(6)S  
Sales Tax  
May 15, 1985

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S831014A

On October 14, 1983 a Petition for Advisory Opinion was received from Edward B. Rusin, 141 Scamridge Curve, Williamsville, New York 14221.

The issues raised are 1) whether the design services performed by Petitioner are subject to sales tax, 2) whether graphic illustrations prepared and sold by Petitioner are subject to sales tax, and 3) whether sales tax should be charged to clients on items on which Petitioner has already paid sales tax to his suppliers.

Petitioner performs the service of designing new buildings and designing the renovation of existing buildings. Petitioner is not a licensed architect.

The design prepared is presented by Petitioner's client to potential financial backers and lessees, town board members, commissions etc. for review and approval. Upon approval, a full set of working drawings (blueprints) is prepared. These drawings may be prepared by Petitioner or by an engineering firm. If prepared by Petitioner, the drawings are reviewed and sealed by a licensed engineering firm for a fee.

In addition to performing the design services, Petitioner prepares graphic illustrations of existing structures. These illustrations are done in perspective from whatever viewing angle the client selects. No design service is performed.

The taxability of Petitioner's service is determined by the end result of the service rendered.

Section 1105(c) of the Tax Law imposes a tax on specifically enumerated services.

When Petitioner's design service is performed as an integral part of an architectural design service and culminates in the preparation by Petitioner of completed working drawings (blueprints), Petitioner's design service will not be subject to tax provided that:

- 1) the preparation of the design by Petitioner and the preparation of the working drawings (blueprints) by Petitioner are part of the same contract; and
- 2) the working drawings prepared by Petitioner are reviewed and sealed by a licensed engineering firm.

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The Sales and Use Tax Regulations provide that tangible personal property purchased for use in performing a service not subject to tax is not purchased for resale. (20 NYCRR 526.6(c)(7)). Accordingly, Petitioner's purchases of any supplies or materials used or consumed in performing architectural type design services are subject to State and local sales and use tax.

Section 1105(a) of the Tax Law imposes a tax on retail sales of tangible personal property. The Sales and Use Tax Regulations define tangible personal property as corporeal personal property of any nature having a material existence and perceptibility to human senses. Tangible personal property includes artistic items such as sketches and paintings. (20 NYCRR 526.8(a)).

When Petitioner's service culminates in the preparation of a drawing, sketch or illustration without the preparation by Petitioner of completed working drawings (blueprints), the transaction is subject to tax under Tax Law section 1105(a) as the sale of tangible personal property. Matter of Fred Gardner Co., Inc. State Tax Commission, October 3, 1980, TSB-H-80(200)S; Glushak v City of New York, 6 A.D. 2d381, 178 N.Y.S. 2d33.

Section 1101(b)(4)(i) defines a retail sale to be a sale of tangible personal property to any person for any purpose, other than for resale as such or as a physical component part of tangible personal property. Accordingly, Petitioner's purchases of materials which will be transferred to the client as a physical component part of a graphic illustration are exempt from tax provided Petitioner furnishes his supplier with a properly completed Resale Certificate (Form ST-120). (20 NYCRR 526.6(c)(2)).

DATED: April 22, 1985

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth herein.