

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

TSB-A-93 (59) S  
Sales Tax  
November 10, 1993

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S931005B

On October 5, 1993 a Petition for Advisory Opinion was received from Orleans County Chapter - NYSARC, Inc., 122 Caroline St., P.O. Box 439, Albion, NY 14411-0439.

The issue raised by Petitioner, Orleans County Chapter - NYSARC, Inc. is whether a not-for-profit organization operating an auto detail shop is responsible for collecting sales tax on sales of this service when the organization has been granted exempt status under Section 1116(a)(4) of the Tax Law.

Petitioner is a not-for-profit organization and has been granted Exempt Organization status under the provisions of Section 1116(a)(4) of the Tax Law.

Petitioner serves the needs of people with disabilities within Orleans County. As part of the rehabilitation services provided through its sheltered workshop, disabled clients perform auto detail work on vehicles for customers in the community. This work includes but is not limited to washing the exterior of the vehicle, cleaning the windows, vacuuming and waxing. Customers are charged a fee for this service.

Section 1116(a) of the Tax Law provides that sales by organizations described therein shall not be subject to the sales or compensating use tax. This exemption is applicable to Petitioner, which satisfies the criteria set forth in Section 1116(a)(4) of the Tax Law. However, pursuant to Section 1116(b) of the Tax Law such exemption is not applicable to (1) retail sales of tangible personal property made by such an organization when made by a shop or store operated by such organization, (2) sales of food or drink in or by a restaurant, tavern or other establishment operated by such organization and (3) sales of the service of parking, garaging and storing motor vehicles provided by such organization operating a garage (other than one which is part of premises occupied solely as a private one or two family dwelling), parking lot or similar place of business.

Section 529.7(i)(2) of the Sales and Use Tax Regulations defines the term "shop or store" as "any place or establishment where goods are sold from display with a degree of regularity, frequency and continuity as well as any place where sales are made through a temporary shop or store located on the same premises as persons required to collect tax."

Petitioner's sales of auto detail work, as described above, are considered to be sales of a service and not sales of tangible personal property.

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Since Petitioner, an exempt organization under Section 1116(a)(4) of the Tax Law, is engaged in the sale of a service which is not one of the activities described in Section 1116(b) of the Tax Law and Section 529.7(i)(2) of the Sales and Use Tax Regulations, Petitioner's receipts from sales of auto detail work will in all events be exempt from sales tax. Junior Achievement of Western New York, Inc. Adv, Op, St Tx Comm, March 20, 1984, TSB-A-84(13)S.

DATED: November 10, 1993

/s/  
PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

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