

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

TSB-H-81(101)S
Sales Tax
May 20, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810226A

On February 26, 1981 a Petition for Advisory Opinion was received from James P. Nastasi, 86 Chelsea Drive, Mount Sinai, New York 11766.

The issue raised is whether Petitioner is required to collect sales tax on charges to customers for his inventory documentation service. This service consists of photographing the personal possessions and household goods of customers requiring photographic proof of ownership. The photographs provided will be used by customers when making insurance claims and/or for the purpose of identification of recovered stolen property. Petitioner will, in most cases, deliver the photographs to his customer. However, if requested, Petitioner will maintain possession of the photographs.

Section 1105 of the Tax Law imposes a tax upon "(a) The receipts from every retail sale of tangible personal property...."

Section 1101(b)(4)(i) of the Tax Law defines the term "retail sales" to include a "sale of tangible personal property to any person...." The terms "sale, selling or purchase," are defined as "Any transfer of title or possession or both ... conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this article, for a consideration or any agreement therefor." Tax Law, §1101(b)(5)

When Petitioner photographs a customer's personal possessions and household goods and delivers the finished photographs to the customer or, at the customer's request, retains the finished photographs in Petitioner's files, Petitioner is considered to be making a retail sale of tangible personal property, as defined in Section 1101(b) of the Tax Law. Accordingly, pursuant to Section 1105(a) of the Tax Law, State and local sales taxes on the total charge to Petitioner's customers are due, and Petitioner is required to collect such taxes.

DATED: May 6, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau

JAMES H. TULLY, JR., COMMISSIONER LOUIS M. JACOBSON, DEPUTY COMMISSIONER
FRANK J. PUCCIA, DIRECTOR