

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

TSB-H-81 (56) S
Sales Tax
March 23, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S801219A

On December 19, 1980, a Petition for Advisory Opinion was received from Dowd's Beefalo Farms #2, Route 25A Cold Spring Road, Laurel Hollow, New York 11791.

At issue is whether sales tax may be included in the total stated sales price when no receipt is issued.

Petitioner is engaged in the business of operating a fast food restaurant. Petitioner issues no guests check or other written form of receipts.

Section 1132(a) of the Tax Law provides in part that, "If the customer is given any sales slip, invoice, receipt or other statement or memorandum of the price, amusement charge or rent paid or payable, the tax shall be stated, charged and shown separately on the first of such documents given to him."

Section 1133(d) of the Tax Law provides that "No person required to collect any tax imposed by this article shall advertise or hold out to the public in any manner, directly or indirectly, that the tax is not considered as an element in the price, amusement charge or rent payable by customers."

Section 1144 of the Tax Law provides that "Whenever reference is made in placards or advertisements or in any other publications to any tax imposed by this article, such reference shall be in substantially the following form: 'sales and use tax'; except that in any bill, receipt, statement or other evidence or memorandum of sale...issued or employed by a person required to collect tax, if the tax is required to be stated separately thereon as provided in subdivision (a) of section eleven hundred thirty-two, the word 'tax' will suffice."

However, vendors who do not issue sales invoices, guest checks or any other written forms of receipts may collect and report sales tax under the "unit price" method. The "unit price" is the total price of the item, including the sales tax, which is rung up on a cash register or recorded in some other system of accounting for sales. Since the customer must be made aware of the inclusion of sales tax in the total sales price, every business establishment employing the "unit price" method must visibly display, to all customers, a placard stating that prices of all taxable items include sales tax.

Accordingly, since the petitioner does not issue guest checks or any other written receipts, the "unit price" method of collecting and reporting sales tax may be used.

DATED: March 6, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau