

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

TSB-A-82(41)S
Sales Tax
November 24, 1982

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S820111A

On January 11, 1982 a Petition for Advisory Opinion was received from Brian Dee, DBA Edgerton Electronics, 933 Motor Parkway, Hauppauge, New York 11788.

The issue raised is whether Petitioner's sales of certain telecommunications devices for the deaf are subject to State and local sales taxes.

Petitioner sells telecommunications devices for use by individuals who are hard of hearing. These devices (TDD or TTY) are used in conjunction with conventional telephones by providing for interconversion of telephone and teletype signals.

Section 1105(a) of the Tax Law, contained in Article 28, imposes the State sales tax on the "receipts from every retail sale of tangible personal property, except as otherwise provided in this article." Section 1115(a)(4) of the Tax Law provides for such an exemption, applicable to "Prosthetic aids, hearing aids, eyeglasses and artificial devices and component parts thereof purchased to correct or alleviate physical incapacity in human beings."

Section 528.5 of the New York State Sales and Use Tax Regulations further explicates such statutory provision, as follows: "Prosthetic aids (a) Exemption. Prosthetic aids, hearing aids, eyeglasses and artificial devices and component parts thereof, purchased to correct or alleviate physical incapacity in human beings are exempt from the tax. (b) Qualifications. (1) In order to qualify as a prosthetic aid, a hearing aid, eyeglasses or an artificial device, the property must either completely or partially replace a missing body part or the function of a permanently inoperative or permanently malfunctioning body part must be primarily and customarily used for such purposes and not be generally useful in the absence of illness, injury or physical incapacity.

. . .

Example 6: Specialized equipment used by the hearing impaired that converts teletype signals into telephone signals and telephone signals into teletype signals and thus enables a hearing impaired person to communicate by telephone, are exempt" 20 NYCRR 528.5.

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The devices described by Petitioner are of a type to which the foregoing regulation provision applies. Accordingly, they constitute property to which the exemption provision contained in section 1115(a)(4) of the Tax Law applies. The same exemption is also applicable to local sales taxes.

DATED: April 5, 1982

s/GABRIEL DI CERBO
Deputy Director
Technical Services Bureau