

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

TSB-A-83(12)S  
Sales Tax  
March 24, 1983

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S820217A

On February 17, 1982 a Petition for Advisory Opinion was received from Tromson Monroe Advertising, Inc., 40 East 49th Street, New York, N.Y. 10017.

The issue raised is whether Petitioner, an advertising agency, is required to pay sales tax on purchases of materials made in connection with its contracts with clients which are entities exempt from sales tax. Petitioner has submitted a sample contract as a basis for this determination.

The submitted contract outlines an agreement between Petitioner and the Curacao Government Tourist Bureau whereby the former is to act as an advertising agency for the latter by preparing and placing media advertisements, as well as performing the ancillary functions normally attendant upon such an agreement. With respect to the purchases of materials at issue herein, Petitioner receives from its client cost plus a commission. It is to be noted, in this regard, that nowhere in the contract is Petitioner designated a purchasing agent for its client, either in these or other terms. Further, nowhere in the contract is there any indication that the client is to become directly liable on Petitioner's purchase orders. The only such assumption of liability appears with regard to operations cancelled at the behest of the client. Accordingly, there being no agency relationship established, Petitioner is not relieved of its obligation to pay sales tax on its purchases in the course of its performance of the subject contract by reason of the exempt status of its client.

DATED: March 3, 1983

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau