

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

TSB-A-84(17)S
Sales Tax
May 4, 1984

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S840315A

On March 15, 1984 a Petition for Advisory Opinion was received from Coin Mach Industries Corporation, 200 Community Drive, Great Neck, New York 11021.

The issue raised is whether Petitioner is entitled to the exemption granted under Section 1105-A of the Tax Law with respect to gas and electricity used to run coin operated washers and dryers located in residential apartment buildings.

Petitioner supplies coin operated washers and dryers in residential apartment buildings for use by the tenants. The washers and dryers in question are located in a separate room in the building and the electricity and gas used by these machines is separately metered and billed to Petitioner. It is Petitioner's contention that these machines are used by the residents of a residential building and that, therefore, the electricity and gas consumed by these machines is used for residential purposes.

Section 1105(b) of the Tax Law imposes a sales tax on the receipts from every sale of, among other things, gas and electricity. Section 1105-A of the Tax Law presently provides for an exemption with respect to gas and electricity "used for residential purposes."

Taxpayer Services Bureau Memorandum TSB-M-78(7)S defines "residential purposes" to mean any use of a structure as a place of abode. "Non-Residential Purposes" is defined as any use other than for "residential purposes", including "any use in the conduct of a trade, business or profession, whether such trade, business or profession is carried on by the owner of the structure or some other persons."

Accordingly, as the gas and electricity at issue is used in the conduct of a trade or business it is not used for residential purposes within the meaning of Section 1105-A of the Tax Law. The receipts from the sale of such gas and electricity are therefore subject to the tax imposed under section 1105(b) of the Tax Law.

DATED: April 17, 1984

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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