

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

TSB-A-89 (41)S
Sales Tax
November 6, 1989

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S890726A

On July 26, 1989 a Petition for Advisory Opinion was received from New Ric Construction Company, Inc., 113 Osborne Street, Auburn, New York 13021.

The issue raised is whether the issuance by Petitioner, New Ric Construction Company, Inc., of a purchase order with the sales tax shown separately satisfies the requirement that the sales tax be shown separately on the first sales document.

Petitioner separately stated the sales tax on its contract/purchase order. Subsequent to the acceptance of Petitioner's purchase order, Petitioner received progress billings from its subcontractors. The progress billings did not separately state the tax, but, the total progress payments equaled the original contract/purchase order which did separately state the tax.

Section 532.1(b) of the Sales and Use Tax Regulations provides:

Statement of and reference to tax. (1) Whenever 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 533.2(b) of the Sales and Use Tax Regulations provides:

Sales records. (1) Every person required to collect tax, including every person purchasing or selling tangible personal property for resale must keep records of every sale, amusement charge, charge for dues or occupancy, and all amounts paid, charged or due thereon, and of the tax payable thereon. The records must contain a true copy of each:

- (i) sales slip, invoice, receipt, contract, statement or other memorandum of sale;
- (ii) guest check, hotel guest check, receipt from admissions such as ticket stubs, receipt from dues; and
- (iii) cash register tape and any other original sales document.
(Emphasis supplied)

The acceptance of Petitioner's purchase order by its subcontractors constituted a "contract, statement or other memorandum of sale". Petitioner separately stated the sales tax on such document

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and thus satisfied the requirement set forth in regulation Section 532.1(b). Therefore, it was not necessary to make a separate reference to the sales tax in Petitioner's subcontractor's progress billing.

DATED: November 6, 1989

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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