

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

The Department of Taxation and Finance received a Petition for Advisory Opinion from [REDACTED] (“Petitioner”). Petitioner asks whether the sale of its Kombucha tea beverage is subject to sales tax.

We conclude that receipts from the sales of Petitioner’s Kombucha tea beverage are not subject to sales tax.

Facts

Petitioner is a national chain of grocery stores. Petitioner’s Kombucha beverage is a tea that is naturally fermented with sugar and/or honey. Because of the fermentation process, the beverage is carbonated and has trace amounts of alcohol (less than 0.5%). The beverage comes in different varieties and may contain fruit juices and herbs.

Analysis

Food and beverages generally are exempt from sales the tax imposed under Tax Law § 1105(a), on the sale of tangible personal property. Tea is specifically exempt from sales tax pursuant to Tax Law § 1115(a)(1). Petitioner’s Kombucha beverage is a flavored tea. Accordingly, the receipts from Petitioner’s sales of its Kombucha tea beverage, as described in this Advisory Opinion, are exempt from sales tax as tea qualifies as an exempt beverage.

DATED: June 16, 2020

/S/

DEBORAH R. LIEBMAN
Deputy Counsel

NOTE: An Advisory Opinion is issued at the request of a person or entity. It is limited to the facts set forth therein and is binding on the Department only with respect to the person or entity to whom it is issued and only if the person or entity fully and accurately describes all relevant facts. An Advisory Opinion is based on the law, regulations, and Department policies in effect as of the date the Opinion is issued or for the specific time period at issue in the Opinion. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.