

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-A-05(15)C
Corporation Tax
October 24, 2005

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. C050322A

On March 22, 2005, a Petition for Advisory Opinion was received from The Public Works PAC, Inc., 138 Guernsey Street, #3L, Brooklyn, NY 11222. Petitioner, The Public Works PAC, Inc., provided additional information with respect to the Petition on August 19, 2005.

The issue raised by Petitioner is whether it is subject to the Article 13 tax on unrelated business income.

Petitioner submits the following facts as the basis for this Advisory Opinion.

Petitioner is a not-for-profit political action committee, which for purposes of this Opinion is assumed to be a qualifying political organization for purposes of Internal Revenue Code section 527. Petitioner was incorporated in the state of New York on April 16, 2004. Petitioner filed an *Application for Exemption from Corporation Franchise Taxes by a Not-for-Profit Organization* (Form CT-247) with the Tax Department and was granted exempt status.

Applicable law and regulations

Section 290(a) of Article 13 of the Tax Law imposes a tax on unrelated business taxable income and provides, in part:

General. For every taxable year or part thereof, every organization described in paragraph two of subsection (a) of section five hundred eleven of the internal revenue code ... carrying on an unrelated trade or business in New York shall pay a tax ... on its unrelated business taxable income for such year, ...

Section 511(a)(1) of the Internal Revenue Code (IRC) imposes a tax on the unrelated business taxable income of charitable, etc., organizations and provides, in part:

There is hereby imposed for each taxable year on the unrelated business taxable income (as defined in section 512) of every organization described in paragraph (2) a tax computed as provided in section 11....

Section 511(a)(2)(A) of the IRC provides, in part:

The tax imposed by paragraph (1) shall apply in the case of any organization ... which is exempt ... from taxation under this subtitle by reason of section 501(a).

Section 501(a) of the IRC provides, in part:

An organization described in subsection (c) or (d) ... shall be exempt from taxation under this subtitle

Section 501(c) of the IRC lists organizations exempt from tax under IRC section 501(a).

Section 501(d) of the IRC provides, in part:

Religious and apostolic organizations. The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations

Opinion

Pursuant to section 290(a) of Article 13 of the Tax Law, the tax on unrelated business taxable income is imposed on every organization described in section 511(a)(2) of the Internal Revenue Code (IRC) carrying on an unrelated trade or business in New York State. Section 511(a)(2) provides, in part, that the federal tax on unrelated business taxable income is imposed on the unrelated business taxable income of any organization that is exempt from taxation for federal income tax purposes by reason of IRC section 501(a). Section 501(a) provides, in part, that an organization described in IRC section 501(c) or (d) is exempt from taxation for federal income tax purposes. IRC section 527 political organizations are not organizations described in IRC section 501(c) or (d). (See Technical Services Bureau Memorandum, entitled *Taxation of Political Campaign Committees*, February 5, 1980, TSB-M-79(11)I for a description of IRC section 527 political organizations.)

Therefore, assuming Petitioner is an organization described in IRC section 527, Petitioner is not subject to the tax on unrelated business income imposed under Article 13 of the Tax Law.

DATED: October 24, 2005

/s/
Jonathan Pessen
Tax Regulations Specialist IV
Technical Services Division

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