

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

TSB-A-83(4)C
Corporation Tax
October 3, 1983

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. C830726C

On July 26, 1983 a Petition for Advisory Opinion was received from Syracuse Colour Graphics, Ltd., 6810 Ellicott Drive, East Syracuse, New York 13057.

At issue is whether or not the taxpayer would be entitled to a refund of an unused investment tax credit earned during its initial short-period beginning May 27, 1983 and ending August 31, 1983.

Petitioner was formed in this State on May 27, 1983 for the purpose of engaging in the production of four color offset printing products. Petitioner intends to acquire new and used equipment to be used in production and which will qualify for the investment tax credit provided for under Section 210.12 of the Tax Law. Petitioner states that it is a "new business" within the meaning of section 210.12(j) of the Tax Law.

Section 210.12(e) of the Tax Law, applicable with respect to taxable years beginning on or after January 1, 1982, in pertinent part, provides that where a new business, as defined in Section 210.12(j) of the Tax Law, is entitled to an investment tax credit carryover, it may elect to treat the carryover as an overpayment of tax to be refunded. Accordingly, as a "new business," Petitioner is entitled to make such election.

Petitioner inquires as to the significance of the following statement, contained on Form CT-46.1, "Claim for Refund of Unused Investment Tax Credit by a New Business": "For taxable years (excluding short periods) beginning on or after January 1, 1982, a corporation that is eligible to claim an investment tax credit and is also a new business as defined in Article 9-A, Section 210.12(j), may elect to receive a refund of its unused investment tax credit instead of carrying the credit forward." The phrase "(excluding short periods)", as contained in such statement, is incorrect and will be deleted from future publications.

DATED: September 12, 1983

s/FRANK J. PUCCIA
Director
Technical Services Bureau