

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

TSB-A-92 (10) C
Corporation Tax
June 10, 1992

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. C920422D

On April 22, 1992, a Petition for Advisory Opinion was received from Josh M. Praver, 118 Main Avenue, Sea Cliff, New York 11579.

The issue raised by Petitioner, Josh M. Praver, is whether Petitioner as a shareholder of a corporation is required to file a New York State franchise tax report for the corporation, and if he does not file the franchise tax report, is he guilty of a criminal offence and/or liable for any unpaid franchise taxes and penalties.

Petitioner is a shareholder of a corporation that has not conducted any business except for one transaction of less than \$5,000 in services in April of 1990.

Section 209.1 of the Tax Law imposes, annually, a franchise tax on domestic and foreign corporations for the privilege of exercising its corporate franchise or of doing business, or of employing capital or of owning or leasing property in New York State in a corporate or organized capacity or of maintaining an office in New York State.

Section 211.1 of the Tax Law provides that every taxpayer, as well as every foreign corporation having an employee, including any officer, within New York State, shall annually file a report on or before the fifteenth of March.

Section 208.2 of the Tax Law defines "taxpayer" as any corporation subject to tax under Article 9-A of the Tax Law.

Accordingly, as a shareholder, Petitioner is not required to file a franchise tax report on behalf of the corporation and Petitioner is not liable for any unpaid franchise tax and penalties owed by the corporation.

Section 171, twenty-fourth of the Tax Law, provides that advisory opinions shall be rendered to any person subject to a tax or liability under the Tax Law or claiming exemption from such tax or liability. Therefore, it is not within the scope of this Advisory Opinion to determine whether a criminal offense has been committed pursuant to Article 37 of the Tax Law.

DATED: June 10, 1992

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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