

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

TSB-A-89 (36)S
Sales Tax
October 4, 1989

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S890721A

On July 21, 1989 a Petition For Advisory Opinion was received from the New York City Department of Finance, 345 Adams Street, Brooklyn, New York 11201.

The issue raised is whether the receipts from the sale of Petitioner, New York City Department of Finance's "Finance Quarterly Bulletin" are exempt from the sales tax under section 1115 of the Tax Law as a periodical; or, in the alternative, are exempt under section 1116 of the Tax Law because it is the sale of property which is not ordinarily sold by private persons.

Petitioner states that the Finance Quarterly Bulletin:

- 1) will be published four times a year;
- 2) does not either singly or, when successive issues are put together, constitutes a book,
- 3) will accept subscriptions from anyone who wishes and who pays the subscription fee.
- 4) plans to have title and general content remain the same from issue to issue.
- 5) will consist of a letter from the Commissioner and a quarterly highlights section containing articles highlighting various legislative, judicial and administrative developments in the City tax area. Highlight Section articles are prepared by a staff of Department of Finance writers. Additionally each issue will contain previously unpublished Finance Letter Rulings and Finance Hearing Decisions and a City tax calendar listing statutory filing dates.

Section 1115(a)(5) of the Tax Law exempts newspapers and periodicals from sales tax.

The definition of the term "periodical" as contained in section 528.6 of the sales and use tax regulations provide in part:

(c) Definition of a periodical. (1) In order to constitute a periodical, a publication must conform generally to the following requirements:

- (i) it must be published in printed or written form at stated intervals, at least as frequently as four times a year;
- (ii) it must not, either singly or, when successive issues are put together, constitute a book;
- (iii) it must be available for circulation to the public;
- (iv) it must have continuity as to title and general nature of content from issue to issue; and
- (v) each issue must contain a variety of articles by different authors devoted to literature, the sciences or the arts, news, some special industry, profession, sport or other field of endeavor.

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Upon review of Petitioner's publication it is determined that it meets all of the criteria of an exempt periodical and is therefore exempt from the sales and use tax. Since petitioner's publication is exempt as a periodical, it is not necessary to determine if it is the sale of property not ordinarily sold by private persons.

DATED: October 4, 1989

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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