

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

TSB-A-94 (12)S
Sales Tax
March 30, 1994

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S931202A

On December 2, 1993 a Petition for Advisory Opinion was received from Sanford Parker, 363 Seventh Ave., New York, New York 10001.

The issue raised by Petitioner, Sanford Parker, is whether a newsletter which he publishes known as "Sandy Parker Reports" qualifies as a periodical exempt from sales tax under Section 1115(a)(5) of the tax law.

Petitioner publishes a weekly newsletter known as "Sandy Parker Reports." Petitioner's publication is devoted to international fur news and is published weekly. It has continuity as to title and general nature of content from issue to issue, it is available for circulation to the general public, and it does not, either singly or when successive issues are put together constitute a book. Some of the articles are written by Petitioner, Sanford Parker and some of the articles written by a professional journalist.

Section 1115(a)(5) of the Tax Law provides that newspapers and periodicals are exempt from the sales tax imposed by Section 1105(a) of the Tax Law.

Section 528.6(c) of the Sales and Use Tax Regulations defines a periodical as follows:

(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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(2) A publication which may be known as or considered to be a newsletter may qualify as a periodical if it conforms to the above standards. Where a newsletter has no signed articles, but has a staff of writers who originally prepare articles, such publication will be considered to have articles by different authors. If a publication has been classified by the United States Postal Service as one which is entitled to second class mailing privileges, that fact will be considered in determining whether or not the publication is a periodical.

Based upon a review of the six successive issues submitted by Petitioner, "Sandy Parker Reports" qualifies as a periodical under Section 1115(a)(5) of the Tax Law since it meets the requirements set forth in Section 528.6(c) of the Sales and Use Tax Regulations.

However if all of the articles appearing in Sandy Parker Reports were to be authored solely by Petitioner, than the publication would fail to meet the requirement set forth in Section 528.6(c)(1)(v) of the Sales and Use Tax Regulations that the articles be by different authors and thus it would not qualify as a periodical. As such, its sale would not be exempt from sales tax pursuant to Section 1115(a)(5) of the Tax Law.

DATED: March 30, 1994

/s/
PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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