

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

TSB-H-80(174)S
Sales Tax
September 10, 1980

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S800610A

On June 9, 1980, a Petition for Advisory Opinion was received from B-L Press, Inc. (D/B/A Buy-Lines Press), 2465 Grand Avenue, Baldwin, New York 11510.

The issue raised is whether Petitioner's publication, entitled "Buy-Lines press," constitutes a newspaper or periodical so as to come within the exemption from the New York State sales tax provided for in section 1115(a)(5) of the Tax Law.

Petitioner's publication is published weekly and circulated and sold through newsstands and other related outlets in the New York Metropolitan area. No subscriptions are taken and no copies are sold by mail. "Buy-Lines Press" consists largely of advertising, including both advertisements placed by individuals who are advertising for the sale of their own personal items and commercial advertisements. The publication also contains amusement features and articles of general interest relating to automobiles, motorcycles, sports, homemaking, shopping and do-it-yourself activities. These articles are of substantial length and are substantial in number.

Section 1105(a)(1) of the Tax Law imposes a tax on the receipts from retail sales of tangible personal property. Section 1115(a)(5) of the Tax Law provides for an exemption from such tax with respect to "newspapers and periodicals."

Section 528.6(b) of the Sales and Use Tax Regulations defines the term "newspaper," in relevant part, as follows: "In order to constitute a newspaper, a publication must conform generally to the following requirements: (i) it must be published in printed or written form at stated short intervals, usually daily or weekly; (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; and (iv) it must contain matters of general interest and reports of current events." 20 NYCRR528.6(b)

Section 528.6(c) of the Sales and Use Tax Regulations defines the term "periodical," in relevant part, as follows: "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; (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." 20 NYCRR528.6(c)

Petitioner's publication does not constitute a "newspaper," within the meaning of section 528.6(b) of the Sales and Use Tax Regulations, because it does not contain reports of current events. However, Petitioner's publication does possess all of the requisite characteristics necessary for it to constitute a "periodical" within the meaning of section 528.6(c) of the Sales and Use Tax Regulations.

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Accordingly, receipts from the sale of "Buy-Lines Press" are not subject to the sales tax imposed under section 1105(a)(1) of the Tax Law.

Dated: August 19, 1980

s/ LOUIS ETLINGER
Deputy Director
Technical Services Bureau