

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

TSB-M-92 (5) S  
Sales Tax  
July 29, 1992

This memorandum supercedes TSB-M-83(20)S

Shopping Papers and Advertising Supplements

For purposes of the exemption from sales and compensating use taxes set forth in section 1115(i) of the Tax Law, shopping papers are defined as community publications distributed to the public, without consideration, for purposes of advertising and public information.

To qualify for exemption as a shopping paper, the publication must also:

1. be distributed to the public on a community wide basis;
2. be published at stated intervals at least 50 times a year;
3. have continuity as to title and general nature of content from issue to issue;
4. contain in each issue news of general or community interest and community notices or editorial comment or articles by different authors;
5. not constitute a book, either singly or when successive issues are put together;
6. contain in each issue advertisements from numerous unrelated advertisers;
7. be independently owned, in that the publication is not owned by or under the control of the owners or lessees of a shopping center or a merchants' association or similar entity or a business which sells property or services (other than advertising), and the advertisements in such publication are not predominantly for the property or services sold by such business; and
8. not have in excess of 90% of the printed area of each issue for advertisements.

The above criteria must be applied to each issue of a shopping paper independently. A shopping paper published on a weekly basis is exempt for the calendar year if 50 issues of the paper meet all of these requirements during such calendar year. (If a shopping paper is published on a semi-weekly basis, then one hundred issues of the paper would have to pass these requirements in order for the shopping paper to be exempt.)

The term "shopping paper" does not include mail order and other catalogs, advertising fliers, travel brochures, house organs, theatre programs, telephone directories, shopping and restaurant guides, racing tip and form sheets, shopping center advertising sheets and similar publications.

Receipts from the retail sale of a shopping paper, as described in this memorandum, are exempt from sales tax. In addition, purchases of printing services, ink, paper, and any other

tangible personal property for use in the publication of a shopping paper and which become a physical component of such shopping paper, are exempt under section 1115(a)(20) of the Tax Law. (For additional information with regard to the application of the production exemption to the printing industry, see TSB-M-79(7)S and TSB-M-79 (7.1) S).

Much of the confusion concerning which publications qualify as shopping papers centers around the requirement that no more than 90% of the printed area of each issue be advertisements.

Advertising space and nonadvertising space must first be identified in order to determine whether or not the shopping paper's advertising space is in excess of 90% of the printed area of each issue.

In determining whether a shopping paper qualifies for exemption, the method of calculation known as the "subtractive" approach will be used. This requires a determination of the area on each page consisting of nonadvertising space. The results of these measurements are totalled and a ratio is established comparing nonadvertising space to total available space per issue (total available space is nonadvertising space plus advertising space). If the ratio is less than 10%, then the printed area of the publication consisting of advertising does not meet the 90% requirement.

### Advertisements

The term "advertisements" as it relates to shopping papers is defined as all material for the publication for which the publisher usually receives consideration and which calls attention to something for the purpose of getting people to buy it, sell it, seek it or support it. Generally, advertisements also include blank space above and below ad space, non-paid headings<sup>1</sup> which highlight ads, and house ads that constitute advertising in the form of self-promotion.

Example 1      A shopping paper has a classified section that advertises automobiles for sale. The sellers of the vehicles pay for the placement of such ads. Above the designated section, the shopping paper has an illustration depicting a sports car with the words "You Can Buy Me Here" imprinted on the front quarter panel. The shopping paper received no money for the placement of the illustration. Such illustration is considered advertising space for the purpose of calculating the percentage of advertising contained in the shopping paper.

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<sup>1</sup> Headings identify sections of the paper, i.e. automotive, real estate, employment, etc.

House ads (ads advertising the services of the shopping paper) and headings denoting a section of industry specific advertisements (e.g., Restaurant Guide) are considered advertisements, even though these items do not specifically generate revenue for the shopping paper. It is not necessary that there be compensation for material to be defined as an advertisement. Since headings call attention to the individual advertisements thereunder, it is appropriate to treat them as advertising for purposes of calculating the shopping paper's advertising space percentage.

A section of a shopping paper containing personal ads may also be considered to be advertising space.

Example 2 A shopping paper has one page of its paper devoted to personal ads. Anyone interested may place the first 15 words of her or his ad at no cost; there is a fifty-cent-per-word charge for any ad in excess of 15 words. Notice is also provided in this page of a "900" number, furnished by the shopping paper, that may be called at a charge of \$1.60 per minute in order to:

- (a) place a voice message, so interested parties can hear the ad placer's voice and learn more about her or him;
- (b) respond to a specific ad; or
- (c) receive any personal messages left in response to the ad.

Since the page devoted to such personal ads calls attention to the "900" number provided by the shopping paper, the printed area of such page is considered advertising space.

### Nonadvertisements

Advertisements do not include the mail-in coupon portion(s) of an advertisement that a reader can use to send in his or her own advertisement for future publication. Such coupons are deemed to be nonadvertising space. Also considered as nonadvertising space are areas devoted to free classified advertisements, public service announcements and articles of general interest or community interest, civil service ads, the editorial section the front page banner<sup>2</sup> and masthead<sup>3</sup>.

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<sup>2</sup> Banner is the space devoted to the name of the publication, publication date, volume and number if applicable, circulation, and any other insignia or logo identifying the publication which appears on the front page only.

<sup>3</sup> Masthead is the section of the paper which lists the address, phone numbers, editor, staff, disclaimer, postal requirement or other information required by law, etc.

In addition, blank space above and below two nonadvertisements and 50% of blank space above and below an advertisement and a nonadvertisement will generally be treated as nonadvertising space. (The remaining 50% of blank space above and below an advertisement and a nonadvertisement will be treated as advertising space.)

Example 3 A shopping paper devotes space in its paper for publishing the local high school's basketball game schedule at no cost to the school. Alongside the game schedule, the shopping paper has placed an illustration of a basketball player dribbling a basketball. The space containing both the basketball game schedule and the related illustration is considered to be nonadvertising space since it relates to an item of community interest.

Example 4 A shopping paper runs a contest, such as the "Baby of the Week", whereby entrants submit a picture of their baby. The winners of the contest have their baby's picture published in the paper, and win a gift certificate to a local baby shop and \$50 in cash. Printed along with the winning picture are the details on how to enter the contest and the prizes awarded. The space in the shopping paper containing both the baby's picture and the contest details is considered to be nonadvertising space since such space contains an article of general interest.

### Geographical Editions

Different geographical editions of the same shopping paper appearing under the same shopping paper name, under the same date and bearing the same, if any, volume number, are deemed to be a single issue of the shopping paper for the purpose of determining if the publication qualifies as an exempt shopping paper under section 1115(i) of the Tax Law.

In some instances, for copyright or other specific purposes, an edition in a particular geographical location may bear a different name and/or volume number than other editions owned and issued by the same publisher under the same date. In such cases, upon request, permission may be given to treat all such shopping papers cumulatively as a single issue for purposes of determining if the publication qualifies as an exempt shopping paper under section 1115(i) of the Tax Law.

Requests are to be made, in writing to:

NYS Tax Department  
Technical Services Bureau  
Sales Tax Instructions and Interpretations  
Building 9  
W. A. Harriman Campus  
Albany, NY 12227

Specifics must be provided substantiating the reason(s) for the different name and/or volume number. Unless permission is obtained from the Technical Services Bureau, the same name, date of issue and volume number, if any, are required in order for different editions to be treated cumulatively as a single issue for purposes of applying the tests for a shopping paper as set forth in the Tax Law.

#### Column Inch Measurement

Effective January 1, 1993, the standardized method of measurement is to be done using column inches as the basis for measuring ad space and non-ad space. In using this method, the width of a given column is multiplied by the depth of a column measured in half-inch increments (unless the shopping paper sells ad space on other than a half-inch increment basis). It is presumed that each page within a particular issue has the same number of column inches. The four borders along each page are not to be included in the measurement calculation. Blank space above and below advertisements and nonadvertisements and headings are to be taken into account as follows:

- The blank space between columns is not taken into consideration in the measurement calculation;
- 100 percent of the horizontal space between two advertisements constitutes ad space;
- 100 percent of the horizontal space between two nonadvertisements constitutes non-ad space;
- 50 percent of blank horizontal space between an advertisement and a nonadvertisement is allocated as ad space and 50 percent as non-ad space.

Each edition of a particular issue of the paper must be uniform in its column size in order to properly calculate advertising and nonadvertising space by the column inch measurement method. The square inch method of measurement will be used only where the number or size of columns per page varies within the same issue of the paper. However, the square inch measurement method will be used for purposes of calculating a shopping paper's advertising and nonadvertising space prior to January 1, 1993. (See the "Square Inch Measurement" section later in this memorandum.)

Example 5 Generally, shopping paper "X" has five columns per page in its weekly issues. However, once a month, the shopping paper uses a special format whereby four center pages of the weekly issue have three columns per page while the other pages in that particular issue have five columns per page. The columns in each center page are wider than the columns in the other pages.

Since the size of columns varies within the same issue of the shopping paper, square inch measurement of ad space and non-ad space must be used for purposes of determining whether that particular issue qualifies for exemption as a shopping paper.

### Square Inch Measurement

Calculation of advertising space and nonadvertising space using square inch measurement is based upon the amount of square inches available for printing (e.g., a page 10 1/2" wide X 16" deep = 168 square inches).

When computing by the square inch measurement method, the four borders along each page are not included in the calculation of area available for printing; and all other blank space must be placed into the category of either advertisement or nonadvertisement depending on the printed material around it. Thus, 100% of the space between two advertisements constitutes advertising, 100% of the space between two nonadvertisements constitutes nonadvertising; and the blank space between an advertisement and a nonadvertisement is allocated 50% as nonadvertising space and 50% as advertising space.

### Advertising Supplements

Advertising supplements that are distributed with a shopping paper, although considered part of the shopping paper when distributed with it, are not part of such paper for purposes of determining whether or not the shopping paper qualifies for exemption. Calculation of advertising/nonadvertising space applies only to the advertising that is part of the shopping paper, paginated and otherwise printed as an integral part of the shopping paper. Such advertising material distributed with a shopping paper, but that is not part of the shopping paper, will qualify for exemption as an advertising supplement as long as it is distributed with an exempt shopping paper. The charge by a shopping paper publisher to the advertiser for distribution of the advertising supplement is not subject to tax.