

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

TSB-H-81 (34) S
Sales Tax
February 24, 1981

STATE OF NEW YORK
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S801112C

On November 12, 1980 a Petition for Advisory Opinion was received from New York State Publishers Association, 215 University Place, Newhouse Communications Center, Syracuse, New York 13120.

The issue raised is whether, for purposes of the sales tax imposed under Article 28 of the Tax Law, the "printed area" of a publication otherwise constituting a shopping paper includes the area contained in pre-printed advertising supplements, supplied by the advertiser to be inserted into and delivered with the shopping paper, when computing the percentage of the area of the publication devoted to advertisements versus the area devoted to other matter such as news of general or community interest.

Section 1115(i) of the Tax Law exempts from the sales tax imposed under Article 28 of the Tax Law "Receipts from the retail sale of a shopping paper to the publishers of such publication" and "receipts from the sale of printing services performed in publishing such paper." Such provision sets forth the requirements which must be met by a publication in order for the same to constitute a "shopping paper." Two of these requirements are (1) that the publication contain in each issue advertisements from numerous unrelated advertisers and (2) that such advertisements not exceed ninety per cent of the printed area of each issue.

The Sales and Use Tax Regulations provide, with respect to advertising supplements, that: "An advertising supplement is a publication consisting of advertising, printed in the form of newspaper sheets or other form which is distributed with a newspaper, mailed out directly, or used by retail stores as handouts. Advertising supplements, when distributed as inserts in a newspaper, periodical or shopping paper, are considered part of such newspaper, periodical or shopping paper." 20 NYCRR 528.6(e) (1).

Accordingly, because an advertising supplement is deemed to be part of a shopping paper, the area of the supplement must be included when computing the percentage of the printed area of the publication devoted to advertising versus the area devoted to other matter.

DATED: February 9, 1981

s/LOUIS ETLINGER
Deputy Director
Technical Services Bureau

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