

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

TSB-A-92 (20)S
Sales Tax
March 6, 1992

STATE OF NEW YORK

COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S911029A

On October 29, 1991 a Petition for Advisory Opinion was received from Debbi Ann Ascher, P.O. Box 1198, Scarsdale, New York 10583.

The issue raised by Petitioner, Debbi Ann Ascher, is whether the receipts from the sale of a newsletter entitled "The Matchmaker" are exempt from the sales tax under Section 1115(a)(5) of the Tax Law as a periodical.

The Matchmaker is a newsletter for Jewish singles, divorcees and widows. It contains a Jewish singles directory, a listing of Jewish singles' events and personal messages. Its "Open Forum" section contains articles by different authors relating to items of interest for singles.

Of 20 pages in the sample issue, only 1 1/2 pages consist of articles by various authors. The balance of the newsletter consists of 15 pages listing persons interested in meeting other singles and singles' events and 3 1/2 pages of information relative to the newsletter itself.

The Matchmaker:

- 1) is published six times a year.
- 2) does not either singly or, when successive issues are put together, constitute a book.
- 3) accepts subscriptions from anyone who wishes and who pays the subscription fee.
- 4) has title and general content that remains the same from issue to issue.
- 5) contains a variety of articles by different authors relating to items of interest to singles.

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 provides 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.

* * *

(3) Nothing in this section shall be construed to exempt as a periodical the following:

- (i) advertising material, such as catalogs, flyers, pamphlets and and brochures;
- (ii) listings and compilations which constitute information services;
- (iii) publications which are issued at stated intervals but which are books or parts of a book.

Upon review of "The Matchmaker" it is determined that although it meets all of the criteria as set forth in Section 528.6(c)(1) of the Sales and Use Tax Regulations, it does not qualify as a periodical because it falls within the exception set forth in Section 528.6(c)(3)(ii) of said Regulations which excludes listings and compilations which constitute information services.

DATED: March 6, 1992

s/PAUL B. COBURN
Deputy Director
Taxpayer Services Division

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