

DEFINITION OF NEWSPAPERS & PERIODICALS

Section 1115(a)(5) of the Tax Law exempts newspapers and periodicals from the tax imposed under sections 1105(a) and 1110 of the same law. Section 528.6 of the regulations, which defines newspapers and periodicals was promulgated at the Tax Commission meeting held on January 18, 1979, and is outlined below

Definition of a Newspaper: (1) 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.

(2) Notwithstanding the fact that a publication may be devoted primarily to matters of specialized interest, such as legal, mercantile, financial, theatrical, political, religious, or sporting matters, nevertheless, if in addition to the special interest it serves, the publication contains general news, it is entitled to the classification of a newspaper.

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.

(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.

IN THE FOREGOING DEFINITIONS OF NEWSPAPERS AND PERIODICALS, THE TERM TO "CONFORM GENERALLY" MEANS THE PUBLICATION MUST MEET ALL OF THE CRITERIA GENERALLY. If, for example, in any given publication all five of the conditions are normally met but on rare occasions are not, the material does "conform generally". If, in the same example, only four of the five conditions are always met, that is, the fifth never is, the material does not "conform generally".

In the future, as individual publications are submitted for review, a comprehensive list of publications that are and are not taxable will be issued by the Technical Services Bureau. The determination will be based on the guidelines set forth in section 528.6 of the regulations as outlined in this memorandum.