

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. C870714B

On July 14, 1987, a Petition for Advisory Opinion was received from Sciarabba Walker & Co., 200 E. Buffalo Street, Ithaca, New York 14850.

The issue raised by Petitioner is whether an organization which is exempt under § 501(c)(7) of the Internal Revenue Code and has deductions reducing its' unrelated business income below \$1000, is required to file form CT-13 and pay the minimum tax of \$250.

New York State imposes an Unrelated Business Income Tax on "every organization described in section 511(a)(2) of the Internal Revenue Code ... carrying on an unrelated trade or business in New York ... at the rate of ten percent ... or two hundred fifty dollars, whichever is greater. (Tax Law, Article 13, §290(a)).

To determine what organizations are subject to tax on unrelated business income, Internal Revenue Code section 511(a)(2) states, in part, that the tax "shall apply to any organization described in I.R.C. §501(c)." This is the precise section upon which the Petitioner is basing its inquiry.

Section 501(c)(7) provides that:

"[c]lubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder."

Accordingly, an organization exempt under §501(c)(7) of the Internal Revenue Code carrying on an unrelated trade or business in New York is subject to tax on unrelated business income.

The unrelated business income taxable to a taxpayer, for New York State purposes, shall be the taxpayers federal unrelated business taxable income subject to modifications enumerated in Sections 292(a)(1) through (3) of Article 13 of the Tax Law. Unlike the Federal tax law, New York does not provide for a minimum dollar amount to be reached before tax is imposed. As a result, a minimum tax of \$250 is imposed on unrelated business income regardless of the amount of income realized by the organization.

New York State Department of Taxation and Finance Form CT-13 is an Unrelated Business Income Tax Return. Every organization described in section 511(a)(2) or (b)(2) of the Internal Revenue Code carrying an unrelated trade or business in New York must file this return and pay the appropriate tax due. This form must be filed within four and one-half months after the close of the reporting period. There is no dollar amount below which a return is not required to be filed.

DATED: October 22, 1987

s/FRANK J. PUCCIA
Director
Technical Services Bureau

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