

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

TSB-A-81(7)S  
Sales Tax  
August 7, 1981

STATE OF NEW YORK  
STATE TAX COMMISSION

ADVISORY OPINION

PETITION NO. S810204A

On February 4, 1981 a Petition for Advisory Opinion was received from American Theater Press, Inc., 100 Avenue of the Americas, New York, New York 10013.

The issue raised is whether, since July 1, 1979, Petitioner's publication, Playbill, has qualified as a periodical exempt from State and local sales and compensating use taxes.

Petitioner publishes Playbill, in printed form, twelve times a year. The magazine consists of articles and editorial content of general, cultural and theatrical interest written by a variety of different authors and is published on a monthly basis. It also contains an individual center insert of cast and other theatrical information for the particular play booked to each of the theaters Playbill services. Each month's issue contains different editorial content and new articles. When successive issues are put together Playbill does not constitute a book.

Since July, 1979 the masthead of Playbill has included notice of the availability of subscriptions. The present policy of Playbill's management is vigorously to solicit subscribers to renew their subscriptions prior to the completion of the subscription year. Subscriptions for Playbill are also solicited throughout the United States from large magazine fulfillment businesses.

Playbill has continuity of title and content from issue to issue. Each issue of Playbill contains a number of articles of general interest by a variety of authors on general cultural and theatrical subjects.

Section 1115(a)(5) of the Tax Law provides for an exemption from sales and compensating use taxes with respect to "periodicals." The Sales and Use Tax Regulations define the term "periodical" as follows: "(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;

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- (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." 20 NYCRR 528.6.

Petitioner's publication, Playbill, meets all of the criteria set forth in the above-quoted provision of the Sales and Use Tax Regulations. Accordingly, since July 1, 1979 Petitioner's publication, Playbill, has constituted a "periodical" within the meaning and intent of section 1115(a)(5) of the Tax Law, thus qualifying for the exemption there provided.

DATED: July 21, 1981

s/LOUIS ETLINGER  
Deputy Director  
Technical Services Bureau