

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

TSB-A-88 (44)S  
Sales Tax  
September 13, 1988

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S880608B

On June 8, 1988, a Petition for Advisory Opinion was received from Generic Stock Investment Service, Inc., Norstar Bank Building, Ithaca, New York 14850.

The issue raised is whether Petitioner's publication qualifies as a periodical, and if so, is exempt from sales tax pursuant to Section 1115(a)(5) of the Tax Law.

Petitioner provides a monthly newsletter which contains financial investment information. Petitioner states that individual newsletters are not intended to comprise a book or manual. Subscriptions to Petitioner's newsletter are available to the general public at a cost of \$200.00 per year. The newsletter has continuity as to title and general nature of content from issue to issue. Each issue contains a variety of articles prepared by a writing staff.

It is noted that the sample copies of Petitioner's newsletter which were submitted as part of the petition each consist of six pages, four and one-half pages of which consist of analysis and recommendations regarding the purchase or sale of specific stocks. The remainder of the newsletter consists of approximately one page of articles devoted to the discussion of various aspects of the methodology of the newsletter and approximately one-half page devoted to investment or financial news articles.

Section 1105(c)(1) of the Tax Law imposes tax upon:

The furnishing of information by printed, mimeographed or multi graphed matter or by duplicating written or printed matter in any other manner, including the services of collecting, compiling or analyzing information of any kind or nature and furnishing reports thereof to other persons, but excluding the furnishing of information which is personal or individual in nature and which is not or may not be substantially incorporated in reports furnished to other persons, and excluding the services of advertising or other agents, or other persons acting in a representative capacity, and information services used by newspapers, radio broadcasters and television broadcasters in the collection and dissemination of news.

Section 1115(a)(5) of the Tax Law states that receipts from the retail sale of newspapers and periodicals are exempt from tax.

Section 528.6(c)(1) of the Sales and Use Tax Regulations defines a periodical as a publication which meets 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.

However, section 528.6(c)(3)(ii) of the Sales and Use Tax Regulations provides that the provisions of section 528.6(c)(1) shall not be construed to exempt as a periodical "listings and compilations which constitute information services."

Section 527.3(a)(3) of the Sales and Use Tax Regulations specifically provides that stock market advisory and analysis reports constitute information services.

Therefore, even though Petitioner's newsletter may conform to the requirements of section 528.6(c)(1), the newsletter does not qualify as a periodical because it falls within the exception provided under section 528.6(c)(3).

Accordingly, Petitioner's newsletter is considered to be an information service pursuant to section 1105(c)(1) of the Tax Law and is subject to state and local sales tax.

DATED: September 13, 1988

s/FRANK J. PUCCIA  
Director  
Technical Services Bureau

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