

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

TSB-M-78(2)S  
Sales Tax  
March 24, 1978

Counsel Opinion - January 13, 1978

PETER CROTTY, Counsel.--My opinion has been requested as to whether or not the purchase of advertising supplements which are inserted in newspapers, periodicals or shopping papers are taxable. The advertising supplements may be ordered by a particular merchandiser or by a newspaper, periodical or shopping paper on the direction of the merchant.

Section 1115(a)(5) of the Tax Law exempts the sale of newspapers and periodicals and section 1115(a)(20) exempts shopping papers from the sales and compensating use tax. The Tax Law is to be interpreted in a practical manner; the terms as used in the Tax Law should mean the same thing for tax purposes as for other purposes. As advertising supplements are incorporated into and delivered with a newspaper, periodical or shopping paper, they are commonly regarded as part of a newspaper, periodical or shopping paper.

Therefore, it is my opinion that advertising supplements which are incorporated into and also sold with or delivered with or as part of a newspaper, periodical, or shopping paper are for tax purposes to be considered part of the newspaper, periodical or shopping paper, and the purchase thereof would be exempt under the provisions of section 1115(a)(5) or 1115(a)(20) of the Tax Law. This exemption would apply whether the printer of the supplement is a newspaper, periodical or shopping paper or independent print shop and whether or not the purchaser of the advertising supplement is a newspaper, periodical or shopping paper, vendor or third party.

To the extent that advertising supplements which are printed are not sold and delivered as part of a newspaper, periodical or shopping paper, but are used for circulation purposes such as in a store or by home delivery through a post office or other means, the supplements are purchased as tangible personal property or printing services and taxable under sections 1105(a) and 1105(c)(2) of the Tax Law.