



**D E P A R T M E N T   O F   F I N A N C E**

**Stephanie A. Miner, Mayor**

**TO WHOM IT MAY CONCERN,**

**NOTE: THE CITY OF SYRACUSE, NY IS A POLITICAL SUBDIVISION OF NEW YORK STATE, AND THEREFORE TAX EXEMPT BY STATUTE (SS 1116 (a)(1) OF SALES & COMPENSATING USE TAXES). A TAX EXEMPT CERTIFICATE IS NOT NEEDED.**

**SEE ALSO ATTACHED.**

**SINCERELY,**

**Eileen Palerino  
AND  
Cindy Giacobbi  
315-448-8330**

as "periodicals" exempt from sales and use taxes was reasonable and proper, and thus such publications were not exempt from sales and use taxes. Standard Rate & Data Service, Inc. v. State Tax Comm'n (3 Dept. 1979) 72 A.D.2d 659, 421 N.Y.S.2d 422, appeal denied 48 N.Y.2d 612, 425 N.Y.S.2d 1027, 401 N.E.2d 920.

Weekly commercial advertisement publications distributed free of charge to individuals within area, known as a shoppers newspaper or penny saver and which section contained intelligence of current events or happenings of general interest and did not regularly supply information on a variety of subjects except for the availability of merchandise and services, was not within the category of "newspapers and periodicals" as used in this section exempting such publications from sales and use taxes. G & B Pub Co., Inc. v. Department of Taxation and Finance, Sales Tax Bureau (3 Dept. 1977) 57 A.D.2d 18, 392 N.Y.S.2d 938, appeal denied 42 N.Y.2d 807, 398 N.Y.S.2d 1029, 368 N.E.2d 45.

Statute imposing sales tax on all printing services and creating exemption from tax for shopping papers in which advertisements do not exceed 90 percent of printed area of each issue did not violate First Amendment's freedom of press and speech. Generally, despite its different treatment of newspapers from shopping papers as distinction was not based upon content of publications. Stahlbrodt v. Commissioner of Taxation and Finance of the State of N.Y., 1996, 171 Misc.2d 571, 654 N.Y.S.2d 938, affirmed 246 A.D.2d 793, 666 N.Y.S.2d 526, affirmed as modified 92 N.Y.2d 646, 684 N.Y.S.2d 466, 707 N.E.2d 421.

Publications which dealt with tax and other business matters and which were sent on regular basis to subscribers were exempt from state sales tax and state compensating use tax as "publications," given consistent past treatment of sales of such publications as nontaxable events and absent any valid rule or regulation interpreting the one-word exemption of this section for "periodicals," subject publications would not be held taxable as information services. Research Institute of America, Inc. v. Department of Taxation and Finance, 1979, 99 Misc.2d 243, 415 N.Y.S.2d 928.

18. Prosthetic aids. Gold, silver, and other alloys and substances used in repairing teeth do not qualify under sales tax exemption for prosthetic aids within meaning of amended statute, which had intent not of relieving prosthetic aid, but merely including over-the-counter purchases on behalf of handicapped individuals; furthermore, the distinction between crowns and false teeth, which are exempt, and filling substances, which are not, is not irrational. Dental Soc. of State of N.Y. v. New York State Tax Comm'n (3 Dept. 1985) 110 A.D.2d 988, 487 N.Y.S.2d 894, affirmed 66 N.Y.2d 939, 498 N.Y.S.2d 797, 489 N.E.2d 766.

19. Research and development. Determination of Tax Appeals Tribunal, disallowing "research and development" exemption claimed by taxpayer for expenses that it incurred in producing "hot suits," protective clothing for working in high temperatures, once these suits were actually put to operational use, was irrational and supported by substantial evidence in sales and use tax assessment proceeding. Modern Restrictories Service Corp. v. Dugan (3 Dept. 1990) 164 A.D.2d 69, 563 N.Y.S.2d 200.

Miniature paper production machine which was used for demonstrations and for rental to customers, as well as for research and development, was not entitled to exemption from sales and use tax since machine was not used directly and exclusively for research and development. Sandy Hill Corp. v. State Tax Commission (3 Dept. 1978) 61 A.D.2d 550, 403 N.Y.S.2d 332.

21. Vessels. Tugboats, which did not actually leave New York waters, but serviced vessels traveling in interstate and foreign commerce were entitled to state sales tax exemption which applied to commercial vessels, primarily engaged in interstate commerce. Moran Towing and Transport Co., Inc. v. New York State Tax Comm'n, 1988, 72 N.Y.2d 166, 531 N.Y.S.2d 885, 527 N.E.2d 763.

Sales and use tax was properly assessed against vessels and supplies used by marine dredging company in dredging operations in New York where dredging was confined to limited area to repair waterways and where while vessels might have been movable, movement was incidental to localized activity, such dredging activities did not come within tax exemption for vessels and supplies primarily used in interstate commerce. Great Lakes Dredge & Dock Co. v. Department of Taxation and Finance, 1976, 39 N.Y.2d 75, 382 N.Y.S.2d 958, 346 N.E.2d 796, certiorari denied 97 S.Ct. 95, 429 U.S. 832, 60 L.Ed.2d 97.

Resolution by State Tax Commission of issue as to whether statutory exemption from sales tax for commercial vessels primarily engaged in interstate or foreign commerce was applicable would not be set aside unless it was clearly erroneous or unreasonable and irrational. Callanan v. State Tax Commission, 1973, 30 N.Y.S.2d 352.

A developer may not use a town's tax exemption for the purchase of materials to be used in the construction of a sewage treatment plant which will, upon completion, be given to the town on behalf of a sewer district. Op State Compt. 73-30.

22. Waste treatment facilities. Manufacturer was not entitled to exemption from sales and use tax for purchase of materials for construction of sanitary pumping station, used to pump industrial and human waste into village sewage treatment plant, under exemption applied to waste treatment facilities. Sandy Hill Corp. v. State Tax Commission (3 Dept. 1978) 61 A.D.2d 550, 403 N.Y.S.2d 332.

20. Vending machines. Tax Commission's determination that more than 75 percent of taxpayer's revenue be made from vending machine sales of ten cents or less in order to be entitled to exemption under this section providing an exemption from sales and use taxes for coin-operated, vending machines, at ten cents or less provided retailer is primarily engaged in making such sales was irrational. Automatique, Inc. v. Bouchard (3 Dept. 1983) 97 A.D.2d 183, 470 N.Y.S.2d 791.

21. Vessels. Marine Corp. v. State Tax Comm'n (3 Dept. 1984) 98 A.D.2d 555, 471 N.Y.S.2d 906, appeal denied 62 N.Y.2d 600, 479 N.Y.S.2d 1026, 468 N.E.2d 710.

Foreign corporation was not entitled to refund of sales tax paid on ground that materials used in repair of commercial vessel engaged in interstate and foreign commerce are exempt from sales tax, in view of fact that foreign corporation's aircraft on which repairs were made did not constitute commercial vessel. Airline Intern., Inc. v. State Tax Commission (3 Dept. 1976) 52 A.D.2d 688, 382 N.Y.S.2d 572.

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§ 1116. Exempt organizations

(a) Except as otherwise provided in this section, any sale or amusement charge by or to any of the following or any use or occupancy by any of the following shall not be subject to the sales and compensating use taxes imposed under this article:

(1) The state of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;

(2) The United States of America, and any of its agencies, and instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons;

(3) The United Nations or any international organization of which the United States of America is a member where it is the



New York State Department of  
**TAXATION and FINANCE**  
OTPA Sales Tax Exempt Organizations Unit  
Building 9 Room 154  
W.A. Harriman Campus  
Albany, NY 12227

January 8, 2010

City of Syracuse  
233 E Washington St Room 128  
Syracuse NY 13202

Dear Sir or Madam:

The Tax Law exempts New York State governmental entities such as your organization, City of Syracuse, from the payment of New York State sales and use taxes on their purchases. In order to make tax exempt purchases, a New York State governmental entity must present vendors with the entity's official purchase order or other documentation (e.g., payment voucher, contract of sale, Form AC 946, *Tax Exemption Certificate*, Form ST-129, *Exemption Certificate - Tax on occupancy of hotel rooms*, etc.) which indicates that the purchaser is a New York State governmental entity.

**Tax exemption numbers and Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*, are not issued to New York State governmental entities.** If a vendor requests a tax exemption number or Form ST-119.1, *Exempt Organization Exempt Purchase Certificate* from you, the City of Syracuse may give the vendor a copy of this letter. This will assure the vendor that a governmental purchase order, or other evidence that the City of Syracuse is the purchaser, is the only documentation the vendor needs in order to not collect sales tax.

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