

## *Ruling 99-03*

Vermont Department of Taxes

Date: 10/29/99

Written By: George Phillips, Tax Policy Analyst

Approved By: Sean P. Campbell, Commissioner of Taxes

You have asked for a formal ruling as to whether 32 V.S.A. § 9741(15) (the sales tax exemption for newspapers) applies to the publication [business]. That is, you ask whether the publication is a newspaper for the purpose of the exemption. This ruling is based on information provided in your letter of June 5, 1999 and on July 15, 1998, September 23, 1998, and May 5, 1999 editions of the publication which were included with the letter as representative of other editions.

[Business] is published biweekly by [Company].

It is distributed free of charge or mailed to paid subscribers (\$ per year). Each edition is thirty-two pages of approximately [size]. These pages are formed by printing on both sides sheets which are [size] by approximately [size]. Each sheet, when folded, makes four pages. The sheets are folded together and bound by staples at the fold ("saddle stitched"). The outside sheets are slightly larger than the inside sheets, to result in an even right hand edge after the fold.

Six of the sheets (24 pages) are newsprint or a similar inexpensive paper. The remaining two sheets are heavier paper, bleached white. One of the two heavier sheets is folded on the outside of the publication serving as a cover. The other is folded on the inside, serving as pages 15 through 18 and marking the center of the publication. The printing uses black ink primarily but some red ink for highlights on the cover and center sheets.

The front cover of each issue features a full-page graphic; the publication name, volume and number, circulation dates, the word "Free", and printing naming features inside. A table of contents is printed on page 3 (the first page inside the cover) and an advertisers' index is printed on page 30 (the last page inside the cover). Near the front of each issue is a publisher's block identifying key publication personnel, post office and email address, numbers for phone and fax, and subscription information.

Each volume includes approximately six to eight feature articles on subjects in the general category of [subject]. There is also a cartoon strip, a calendar of [subject] a calendar of "events around the region", a horoscope, and analyses of [subject]. About thirty percent of the printed space is used for advertising. The feature articles are by several different authors and constitute about 40% of the printed space.

Section 9741(15) provides an exemption from sales and use tax for:

"Sales of newspapers and sales of tangible personal property which becomes an ingredient or component part of or is consumed or destroyed, or loses its identity in the manufacture of newspapers, whether sold or distributed without charge. A publication shall not be considered a newspaper unless, on an average for the taxable year, at least ten percent of its printed material consists of news of general or community interest, community notices, editorial comment, or articles by different authors."

"Newspaper" is not defined in the statute except to the extent of the exclusionary language in §9741(15). The Random House College Dictionary contains the following definition:

"Newspaper, n. 1. a publication printed on newsprint, usually issued daily or weekly and commonly containing news, comment, features, photographs, and advertising." The Random House College Dictionary, Revised Edition (1988), p. 897.

"Magazine" is defined as follows:

"Magazine, n. 1. a publication that is issued periodically, usually bound in a paper cover, and typically containing stories, essays, poems, etc., by many writers, and often photographs and drawings, frequently specializing in a particular subject or area." Ibid, p. 804.

You state in your letter that you believe that [Company] is a newspaper because more than 10% of its content is news of general or community interest, community notices, editorial comment or articles by different authors. The existence of such content is necessary for the exemption under §9741(15). The content test, however, is an additional requirement of publications which would otherwise be newspapers under the ordinary meaning of the word. Magazines, encyclopedias, bibles, and other publications which are not newspapers may have 10% of their content in one or more of the categories listed in § 99741(15); it was not the legislative intent to declare such publications to be newspapers, which would be the result if only the content test were given effect.

[Company] is a small bound, covered booklet issued biweekly. It does not have the physical characteristics of a newspaper. Therefore it is not exempt from sales and use tax under the provisions of § 9741(15).

This ruling is issued solely to you and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.