

M e m o r a n d u m**385.0274**

To: Mr. E. H. Bush
Out-of-State Auditing

March 3, 1980

From: Mary C. Armstrong
Legal

Subject: The R--- I--- of A---, Inc.
SC --- XX XXXXXX

This is in response to your memorandum of December 28, 1979. You have requested our opinion as to the correct application of tax on a publication, "S--- R---," which is published by the referenced taxpayer.

During the course of an audit of the taxpayer, it was determined that "S--- R---" did not qualify as an exempt periodical under Regulation 1590 since it is not issued "at stated intervals not exceeding three months." You wish to know whether we agree with this determination.

As we understand it, "S--- R---" was issued 19 times in 1976, 16 times in 1977 and 14 times in 1978. According to information supplied by the taxpayer, each edition consists of "in-depth studies sent to (customers) regularly as the need indicates."

Revenue and Taxation Code Section 6362(a) provides that tax does not apply to the sale of:

"tangible personal property which becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months and any such newspaper or periodical."

We would conclude that "S--- R---" is not "regularly issued at average intervals" as required by Section 6362(a). As such it does not qualify as an exempt "periodical" and tax will apply to its sale.

MCA:ba