

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELIOT SHARP ASSOCIATES, INC.

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the ~~XXXXXX~~ Periods
8/1/65 - 5/31/70

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY (~~CERTIFIED~~) MAIL

State of New York
County of Albany

Janet Mack, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 16th day of September , 1974 , she served the within
Notice of Decision (or Determination) by (~~certified~~) mail upon Eliot Sharp
Associates, Inc. (~~representative of~~) the petitioner in the within

proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Eliot Sharp Associates, Inc.

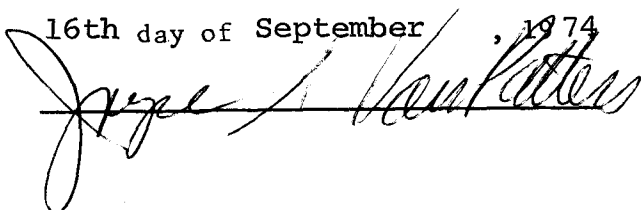
150 Broadway
New York, New York

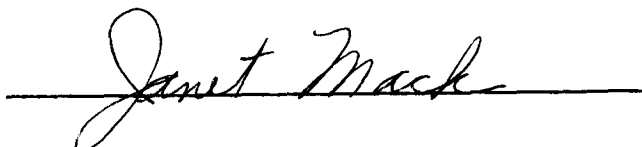
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (~~representative of~~)
~~or~~ petitioner herein and that the address set forth on said wrapper is the last
known address of the (~~representative of the~~) petitioner.

Sworn to before me this

16th day of September , 1974





STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition

of

ELIOT SHARP ASSOCIATES, INC.

AFFIDAVIT OF MAILING
OF NOTICE OF DECISION
BY ~~CERTIFIED~~ MAIL

For a Redetermination of a Deficiency or
a Refund of Sales and Use
Taxes under Article(s) 28 & 29 of the
Tax Law for the ~~years~~ Periods
8/1/65 - 5/31/70

State of New York
County of Albany

Janet Mack, being duly sworn, deposes and says that
she is an employee of the Department of Taxation and Finance, over 18 years of
age, and that on the 16th day of September, 1974, she served the within
Notice of Decision (or Determination) by ~~(certified)~~ mail upon Horace A. Teass, Esq.

(representative of) the petitioner in the within
proceeding, by enclosing a true copy thereof in a securely sealed postpaid
wrapper addressed as follows: Horace A. Teass, Esq.

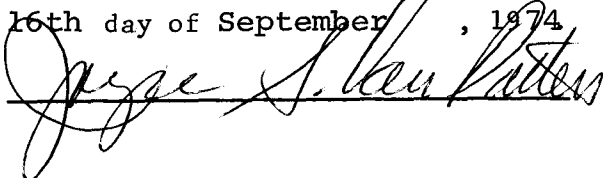
11 Broadway
New York, New York 10004

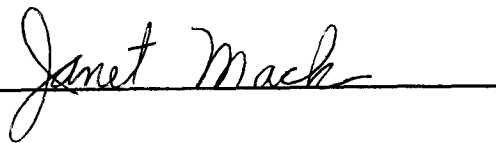
and by depositing same enclosed in a postpaid properly addressed wrapper in a
(post office or official depository) under the exclusive care and custody of
the United States Post Office Department within the State of New York.

That deponent further says that the said addressee is the (representative
of) petitioner herein and that the address set forth on said wrapper is the last
known address of the (representative of the) petitioner.

Sworn to before me this

16th day of September, 1974







STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE

BUILDING 9, ROOM 214A
STATE CAMPUS

ALBANY, N. Y. 12227

AREA CODE 518

457-2655, 6, 7

STATE TAX COMMISSION
HEARING UNIT

EDWARD ROOK
SECRETARY TO
COMMISSION

STATE TAX COMMISSION

~~THOMAS F. GAYLOR~~
Mario A. Procaccino
PRESIDENT

A. BRUCE MANLEY

MILTON KOERNER

ADDRESS YOUR REPLY TO

DATED: Albany, New York

September 16, 1974

Eliot Sharp Associates, Inc.
150 Broadway
New York, New York

Dear Sirs:

Please take notice of the **DETERMINATION** of
the State Tax Commission enclosed herewith.

Please take further notice that pursuant to **sections 1138 & 1243** of
the Tax Law any proceeding in court to review an adverse decision
must be commenced within **4 months** after
the date of this notice.

Any inquiries concerning the computation of tax due or refund allowed
in accordance with this decision or concerning any other matter relat-
ing hereto may be addressed to the undersigned. These will be referred
to the proper party for reply.

Very truly yours,

Nigel G. Wright

HEARING OFFICER

cc Petitioner's Representative
Law Bureau

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Application	:	
of	:	
ELIOT SHARP ASSOCIATES, INC.	:	DETERMINATION
for a Hearing to Review a Determination	:	
or a denial of a Refund of Sales and Use	:	
Taxes under Articles 28 and 29 of the	:	
Tax Law for the Period August 1, 1965	:	
through May 31, 1970.	:	

Eliot Sharp Associates, Inc. filed an application under section 1138 of the Tax Law to review a determination issued under date of October 7, 1970, for sales and use taxes in the amount of \$23,331.03 plus penalty and interest of \$6,043.23 for a total of \$29,374.26 under Articles 28 and 29 of the Tax Law for the period August 1, 1965 through May 31, 1970. In lieu of a hearing, applicant has submitted the case to the State Tax Commission on the file of the Sales Tax Bureau. Said file has been duly examined and considered. Howard A. Teass, Esq., represents applicant. Saul Heckelman, Esq., represents the Sales Tax Bureau.

ISSUES

The issues in this case is whether certain publications distributed by the applicant should be classified, as contended by the applicant, as "periodicals" which would be personal property but which would be exempt under section 1115(a)(5) from the sales tax on the sale of "tangible personal property" as imposed by section 1105(a) or whether, as contended by the Sales Tax Bureau, they should be classified as an "information service" which would be taxable under section 1105(c), as the sale of a "service" specified in section 1105(c)(1) as "the furnishing of information by printed ... matter ...".

FINDINGS OF FACT

1. The applicant is engaged in the preparation and distribution of the following publications: "Eliot Sharp's Corporate News"; "Eliot Sharp's Tax-Exempt News"; "Eliot Sharp's Weekly Corporate News"; and "Eliot Sharp's Corporate News Spotlight".

2. "Eliot Sharp's Weekly Corporate News" is mailed out weekly. It consists of three or four pages of 8 1/2" by 11" pages which are punched at the side for insertion in a loose-leaf binder. Corporations are listed alphabetically within groups, with two to six lines of information pertaining thereto. The information appears to pertain exclusively to the registration and issuance of corporate securities. This includes corporate plans for future new issues, the availability of older offerings, current offerings already sold out, cancelled offerings and SEC filings. The information generally names the managing underwriter. It appears to be directed to firms who are dealers in securities. Attached to one issue, which was submitted in evidence, is a "Bond Market Comment" filling up two sides of one sheet of paper. This discusses interest rates, inflation and gives judgments on both the current situation and future prospects. The publication bears a copyright mark and carries on its masthead "reproduction by permission only".

3. Eliot Sharp's Corporate News is issued daily and is similar to the Weekly Corporate News.

4. Eliot Sharp's Corporate News Spotlight is published weekly. It is 12 pages, 8 1/2" by 14" in size on colored paper. It is not punched. It is referred to as the "check list". It is a listing of corporations showing the name of a managing underwriter, the date of a past or future public offering of securities, and the date on which the prospectus delivery

requirement expires. Its masthead bears a copyright mark and is marked "confidential" and "reproduction by permission only". A suggestion appears on the back to have extra copies sent to the subscriber's sales department, research department, back office or to customers and prospects.

5. Eliot Sharp's Tax-Exempt News is published daily on two sheets of 8 1/2" by 11" paper, which are punched at the side for insertion into a loose-leaf binder. It lists the state and local jurisdictions issuing bonds under two titles "new financing" and "sales". From three to six lines describes the issue, when bidding will take place, who has bid, and other information. A short portion entitled "Street Talk" criticizes the comments of others and gives judgments on the bond market. A separate sheet on the Monday issue lists chronologically the date and time of bidding, all issues scheduled for the week, and the major issues for the remainder of the month. It also lists market quotations on public authority bonds and U.S. Treasury securities.

6. These publications are not available on newsstands and are not generally advertised. Applicant claims they are advertised "by word of mouth" among its subscribers. The cost of these publications is not known. It is not known what libraries, if any, receive these publications.

7. The audit found a total tax of \$30,169.59 against which payments of \$6,838.56 were credited to reach the principle amount due of \$23,331.03. Of the total, only \$28,817.28 relates to the issue raised herein. The sum of \$1,352.31 relates to purchases and has not been contested.

CONCLUSIONS OF LAW

The publications here in issue constitute an information service and are subject to sales taxes.

DATED: Albany, New York
September 16, 1974

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER