



STATE BOARD OF EQUALIZATION

(916) 445-3237

March 1, 1984

J--- G---
President
B--- B---
XXX --- ---
---, CA XXXXX

Re: Birthday Business
Computer printed cards –
mailing services

Dear Mr. G---:

This is in response to your November 20, 1983 letter to the Board's legal staff. You ask for our opinion on the application of sales tax to the following transactions:

My company provides a service of administering Birthday Clubs for restaurants. Customers register in the restaurant on a form the restaurant provides. This form is sent to us and we enter the information onto a 8" disk which is sent to a service bureau where it is read into our customers file. Each month the service bureau prepares a tape with names and addresses of all customers whose birthday is during the following month. This tape is sent to another company which prints the information, on a card provided by our customer, using a laser printer and reading the tape provided by our service bureau. As can be seen from the enclosed invoice the laser printing company bills us for each card addressed and the charge is the same irrespective of whether they print merely the name and address or if they print an additional message on the enclosed card. We bill our customer for each name entered onto the disk and for each card we send for them. The name files belong to our customer and we cannot make any use of them without their permission.

I have the following questions:

1. Is any part of the laser printing operation taxable to us? My reading of regulations 1504 (b)(1) and (2) and 1502(d)(3) indicates that this is not a taxable transaction.
2. Is any part of the service we perform for our clients taxable? Again, my reading of the regulations indicates that it is not.

We set forth below the rules we think are applicable to the issues you raise.

Sales and Use Tax Regulation 1502(d)(3) states in part:

- (3) Where the service bureau addresses, through the use of its automatic data processing equipment or otherwise, material to be mailed, with names and addresses furnished by the customer or maintained by the service bureau for the customer, tax does not apply to the charge for addressing.

Regulation 1504(b), Mailing Services, provides in part:

- (1) Tax does not apply to charges for services rendered in preparing material for mailing, such as addressing....
- (2) "Addressing" means the actual writing, typewriting, printing, imprinting or affixing of names and addresses or addresses only on property to be mailed.

Regulation 1540(c), Printing Related to Mailing, states in part:

- (1) Tax applies to charges for printing matter furnished to a customer by a person engaged in the business of providing mailing services to the same extent as to charges for printed matter generally, even though the printed matter is to be mailed.

Regulation 1541(c), Mailing, provides in part:

Tax does not apply to charges for... addressing for the purpose of mailing (by hand or by mechanical means)... provided such charges are stated separately on invoices and in the accounting records.

For purposes of the sales and use tax law, a "sale" includes the printing or imprinting of tangible personal property for consumers who furnish the materials used in the printing or imprinting. Revenue and Taxation Code section 6006(b). Further, the total amount of the sales price which must be included in the seller's gross receipts subject to tax includes any services that are a part of the sale of tangible personal property. Code section 6012(b)(1).

Applying these rules to your questions, our opinion is that the laser printing operation results in a taxable sale by your company to your customer when the printer not only prints the names and addresses on the cards for mailing purposes, but also prints an additional message on the cards you send for your customers. This is so regardless of the brevity of the message, or the fact that the printer may charge nothing extra for printing the message. While it is true that addressing for the purposes of mailing only, whether done by hand, by typewriter, or by computer, is regarded as a nontaxable service under Regulation 1504(b), any printing or imprinting beyond addressing for mailing is a taxable sale of the printed matter under Regulation 1504(c). Your services to your customers in maintaining their address files then becomes services taxable as a part of the sale of the printed matter.

If, on the other hand, the printer merely prints the names and addresses for mailing purposes only, on the cards you send for your customers, then this is a nontaxable service, and the services you render in maintaining customers' address files are also nontaxable. Please note that if the printer merely adds a salutation (Dear _____) to the name and address, this alone would not make the addressing for mailing taxable.

Although this does not apply to the postcard you enclosed as a sample, please note that nontaxable addressing for mailing does not include inside addressing, that is, the printing of names and addresses on letters which will be placed inside envelopes also bearing the recipient's name and address. This is taxable printing of the inside addresses. On the other hand, if the names and addresses printed on letters are used for mailing purposes, such as when window envelopes are used to mail the letters, then the printing of the names and addresses on the letters is considered nontaxable addressing for mailing. Business Taxes Law Guide Annotation 340.0040.

We note that there may or may not be other taxable transactions in the facts you relate, such as your transfer of the disc of names and addresses to the service bureau, and the service bureau's transfer of the tape of names and addresses to the printer. We do not have enough facts in your letter to determine the taxability of these transactions, nor did you ask about them. For your general reference, see Regulation 1502(d), Manipulation of Customer-Furnished Information as Sales or Service.

Please feel free to contact me if you have any further questions or comments about this letter. I enclose copies of Regulations 1502, 1504, and 1541 for your information.

Very truly yours,

John Abbott
Tax Counsel

JA:ss
Enclosures