



STATE BOARD OF EQUALIZATION

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October 30, 1996

E. L. Sorensen, Jr.
Executive Director

Ms. S--- W. R---
I---, Inc.
XXXX --- ---, Suite XXX
---, CA XXXXX-XXXX

Re: I---, Inc.

Dear Ms. R---:

This is in response to your letter which was received by the Legal Division on September 20, 1996. You ask how tax applies to the following business transaction:

“We receive paper documents from a client. We scan the paper documents into the computer using a scanner, then we extract, manipulate, and sort the data from the documents, according to the contracted instructions of our client. That data is then written onto an output medium, CD’s (compact disks). The CD’s and the original source documents are then picked up by the client for transport back to their facility. There may be clients who would contract with us to transport their source documents to and from our operations center

“For ongoing contracts with such organizations as banks, insurance tracking services, and title companies who will have an ongoing flow of documents coming to us weekly or monthly, our service will include the updating of a continuous file of information maintained by the customer.

“The cost of the CD’s onto which the extracted data will be written and given to the client will be billed as a separate charge to the client rather than incorporated as an integral part of the service charge.”

You ask whether pick-up and delivery charges for transporting the documents furnished by your customers and the compact disk containing the original information developed by you are subject to tax. You also ask whether you may purchase the compact disks for resale under a resale certificate.

DISCUSSION

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless the sale is exempt from taxation by statute. (Rev. & Tax. Code § 6051.) Although the retailer owes the sales tax, the retailer may collect sales tax reimbursement from the purchaser if the contract of sale so provides. (Civ. Code § 1656.1.) When sales tax does not apply, use tax, measured by the sales price, applies to the use of tangible personal property purchased from a retailer for the storage, use, or other consumption in California, unless the use is exempt from taxation by statute. (Rev. & Tax. Code §§ 6201, 6401.)

Charges for processing customer-furnished information are not subject to tax. (Reg. 1502(c)(5).) Processing of customer-furnished information means the developing of original information from data furnished by the customer. (Reg. 1502(d)(5)(A).) Examples of such processing of customer-furnished information include the summarizing, computing, extracting, sorting, and sequencing of data, and the updating of a continuous file of information maintained by the customer with the data processing firm.

Additionally, where a data processing firm enters into a contract for the processing of customer-furnished information, the transfer of the original information to the customer is considered to be the rendition of a service. (Reg. 1502(d)(5)(C).) Tax does not apply to the charges made under contracts providing for the transfer of the original information regardless of the storage media used to transfer the original information. (*Id.*) The data processing firm is the consumer of the materials used in providing exempt services. (Reg. 1502(c)(8).) Tax applies to the sale of materials to the data processing firms. However, where a separate charge is made to customers for the materials, tax applies to the charge made for the materials. (*Id.*)

You state that you extract, manipulate, and sort data furnished by your customers, and that you update continuous files of information maintained by your customers. Such services constitute nontaxable processing of customer-furnished information under Sales and Use Tax Regulation 1502(d)(5).

With regard to the compact disks, you state that your customers are separately charged for the cost of the compact disks used to transfer the original information developed by you. Under these circumstances, the taxable retail sale of the compact disk is the sale by you to your customer. You may collect sales tax reimbursement from your customer if the contract for sale so provides. You may also purchase the compact disks extax under a resale certificate.

Lastly, with regard to the pick-up and delivery charges for the customer-furnished documents and the compact disk containing the original information developed by you, such charges are not subject to tax. Regulation 1502(h) specifically provides that if the data processing firm's billing is for nontaxable processing of customer-furnished information, tax will not apply to pick-up and delivery charges.

If you have any further questions, please write again.

Sincerely,

Sophia H. Chung
Tax Counsel

SHC:rz

cc: --- District Administrator - (--)