STATE BOARD OF EQUALIZATION
916-445-8900

December 24, 1982

Dear [X]:

Re: [X]

Thank you for your letter of November 5, 1982, requesting advice on whether Assembly Bill 2932 applies to custom application programs for programmable calculators. You state:

> "We sell custom software for a programmable calculator. These custom application programs are recorded and provided to the customer on magnetic cards or prom modules. The customer is not required to purchase these custom application programs with the programmable calculator. The custom programs are developed by our personnel to the special order of a customer. We analyze our customer's requirements, evaluate data and develop a custom program to a specific customer need."

In our view, a programmable calculator falls within the intended scope of the term "computer'" as used in Assembly Bill 2932 (Chapter 1274, statutes of 1982). Thus, a custom computer program, other than a basic operational program, which otherwise qualifies for exclusion from tax under Revenue and Taxation Code Section 6010.9, as added by Assembly Bill 2932, will not be subject to tax even though it is designed for use by a programable calculator.

Further, this exclusion would extend to such custom programs when they are transferred in the form of magnetic cards or prom (i.e., programable read only memory) modules. We conclude that such items were intended to be included within the term "storage media" as defined and used in section 6010.9.

Very truly yours,

Richard H. Ochsner
Tax Counsel

RHO:jw