



STATE BOARD OF EQUALIZATION

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Executive Director

May 13, 1996

Mr. A--- W. C---

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XXXXX N. Highway XX
---, CA XXXXX

Dear Mr. C---

This is in response to your letter of March 20, 1996.

We understand that --- --- --- (M) has developed two software packages which it plans to market to businesses located in California and in the other 45 states that impose sales and use taxes. Your question is whether to sell and/or lease these products either directly or through third parties. You have asked our opinion as to whether your contemplated activities would be consistent with the provisions of California Revenue and Taxation Code section 7056.

One of the software packages, called "Accounts Payable Solution," would be sold or licensed to nonretailer taxpayers (primarily manufacturers) for their internal use and does not involve any provision of consulting services by (M). The software helps a taxpayer review its accounts payable transactions, prior to preparation of its tax submittal to the state, using the general ledger and accounts payable data that belongs to the taxpayer. The software is distinct from tax preparation software already offered by several firms.

The other software package is called "State Sales Tax Auditor System" which is intended to be sold to sales and use tax administration departments of the various state governments. Using this software, state auditors can download a company's general ledger and use this software as a tool in conducting a compliance audit. The software gives the state auditor many advantages in conducting a more effective and thorough sales and use tax audit.

Revenue and Taxation Code section 7056 provides generally that information with respect to any retailer or any other person required to report to the Board or pay a tax pursuant to the Sales and Use Tax Law is confidential. That section provides that information otherwise confidential may, subject to certain limitations, be released to local government agencies participating in the Bradley-Burns local tax program or in the Boards' district tax program. Information may also be released, under prescribed circumstances pursuant to local government resolution, to private consultants. Under section 7056 (b)(1)(C), such consultants are prohibited "from performing consulting services for a retailer."

We can concur in your analysis that the sale of the products in question to nonretailer manufacturers and to state agencies which administer sales and use tax laws would not be violative of the provisions of section 7056(b)(1)(C). Please note, however, that section 7056(b)(2) would prohibit you from developing a potential client list with respect to your software products based upon work performed by you in performing your consultant duties with local government authorities.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

cc: Mr. E. L. Sorensen, Jr. – MIC:73
Mr. Glenn A. Bystrom – MIC:43