



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

November 21, 1979

Dear ---:

This is in response to your request of November 14, 1979 concerning proposed amendments to Sales and Use Tax Regulation 1503.

On November 14, 1979, a public hearing was held in connection with proposed amendments to Regulation 1503. The proposed amendments incorporated 1979 legislative amendments (AB 1497, Stats. 1979, Chap. 1048) to Revenue and Taxation Code Section 6363.6 which exempts the sale or consumption of meals to residents which is the principal residence for persons 62 years of age or older. At the hearing you proposed that paragraph (a)(3) of Regulation 1503 be revised to include "condominiums or homeowners associations owning equal shares in common kitchen facilities."

On November 15, 1979, after due consideration of ---'s proposed language, the Board adopted the following amendments to Regulation 1503:

"(3) Operative January 1, 1980, any house or institution supplying board and room for a flat monthly rate and serving as a principal residence exclusively for persons 62 years of age or older."

The amendment the Board adopted is identical to the language contained in Assembly Bill 1497.

As adopted, Regulation 1503(a)(3) requires houses and institutions qualifying under this section to supply "board and room for a flat monthly rate." As we understand it, a condominium or homeowner's association owning equal shares in common kitchen facilities would not be considered to be supplying "board and room." A condominium, as defined in Civil Code Section 783, is "an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential....Building." A homeowner's association is the corporate entity generally set up to manage the common areas of a condominium. .

We are of the opinion that the very nature of a condominium as a separate interest in real property precludes the possibility that a condominium would ever be considered to be supplying both “room and board” since each condominium is a separate unit which is separately owned and rents or payments for the purchase of the condominium are separately made. Nor can we foresee any situation where a homeowner’s association could be considered to be supplying “room and board.” Each of these entities might supply meals or “board” to persons in common dining areas; however, they are not supplying “room,” as required in Regulation 1503. As such, condominiums and associations are not properly includible in Regulation 1503(a)(3) and tax properly applies to the sale of meals by these organizations.

If you have further questions concerning this matter, please write this office.

Very truly yours,

Mary C. Armstrong
Staff Counsel