



STATE BOARD OF EQUALIZATION

June 2, 1982

Your December 3, 1981 letter to this Board's Out-of-State District Office has been referred to the legal staff for reply.

You believe that, in the aftermath of the hearing report on the petition of the --- --- recurring laundry provision should be considered an essential part of any of --- Cap and Gown's --- lease agreements.

We disagree. The facts in the --- petition showed the leases to the school were for more than one year. In such case, we assume that a recurring laundry service is provided and is an essential part of the lease agreement.

Although a student who rents a cap and gown may expect laundered articles, if --- enters into a new contract with a school for each lease, there is no recurring laundry essential to ---'s lease contract with the school. In such case, the lease to the school would be a sale, and tax would apply to the lease receipts.

Assuming that ---'s lease of caps and gowns to a school is a sale, ---'s lease to the school would be subject to tax unless the school subleases the caps and gowns to the students. If the school subleases the caps and gowns, --- lease to the school is a sale for resale. The school would be liable for collecting tax on the sublease to the students and should issue a resale certificate to ---.

However, the resale procedure would not apply if the school did not lease or otherwise sell the caps and gowns to the students. For instance, Revenue and Taxation Code, Section 6006.3 provides:

"Lease' includes rental, hire and license. 'Lease' does not include a use of tangible personal property for a period of less than one day for a charge of less than twenty dollars (\$20) when the privilege to use the property is restricted to use thereof on the premises or at a business location of the grantor of the privilege."

Since a use by the school in accordance with Section 6006.3 would not be a "lease", the lease by --- to the school would be subject to tax. Likewise, "if a school

merely donated the use of caps and gowns to the students, for no charge, the lease by ---
to the school would be subject to tax.

If you have further questions, feel free to write directly to this office.

Very truly yours,

Ronald L. Dick
Tax Counsel

RLD: rar

cc: Mr. Donald Brady
Mr. Jack Warner