



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

March 27, 1990

Ms. C--- G. P---
XXX- --- --- Place
--- ---, CA XXXXX

Dear Ms. P---:

In a letter dated March 20, 1990, I wrote you concerning the application of sales or use tax to several charges. One of these charges was a fee charged to lessees of video tapes if they fail to rewind the tapes.

I concluded that the rewind charge was subject to tax because it was a fee required by your lease agreement. However, I overlooked the fact that the lessee can avoid paying the fee by rewinding the tape. When a lessee under a taxable lease (such as a lease of video tapes) is required to use the services of the lessor, the charges for those mandatory services are subject to tax. However, the charge for an optional service is not subject to tax. Since your lessees are not required to use your rewind services (they can rewind the tapes themselves), your rewind services are optional and your rewind charges are not subject to tax.

Sincerely,

David H. Levine
Tax Counsel

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