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April 14, 1994

Dear: ---

I apologize for the delay in responding to your August 20, 1993 letter regarding the application of sales tax to charges by --- --- --- for publications issued on compact discs. As you and I discussed on the telephone, the issue you raised has been the subject of a number of discussions with our staff.

--- sells subscriptions to --- which consists of a data base on compact disc. The information embodied on the media consists of public records information from the county assessor and other agencies enhanced with "characteristics, current sales, sales history, telephone numbers, parcel maps, geo-coded data, USPS standards, census tract data and other significant information." The quoted portion is from the --- brochure you sent titled "--- --- ---."

The issue raised is whether the sale of the compact discs, each of which contains the whole body of information of a year's subscription qualifies for exemption from sales tax pursuant to Revenue and Taxation Code section 6362.7, subdivision (b), which provides:

"There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or a component part of any periodical regularly issued at average intervals not exceeding three months, and any such periodical, that is sold by subscription and delivered by mail or common carrier."

We understand that the compact discs are published at stated intervals and regularly issued at average intervals not exceeding three months.

As you pointed out in your letter, the compact disc issued to a subscriber contains data which are on the previously issued disc. They also contain new data which have accumulated over the intervening two months. You noted that, in this regard, they are akin to multiple listing service publications which we have previously considered to qualify as periodicals. After

researching the background of the multiple listing service opinions published as Business Taxes Law Guide Annotations 385.0340, 385.0341, and 385.0350, we agree with your conclusion that the --- compact discs issued by --- qualify as periodicals for purposes of Revenue and Taxation Code Section 6362.7. We had also re-examined the issue of whether the law permits a computer readable medium such as a floppy disc or compact disc to qualify as a periodical and have concluded that the statute may be so construed.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

Ronald Dick
Senior Tax Counsel

RLD:plh

bc: Oakland District Administrator - CH