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**STATE BOARD OF EQUALIZATION**

August 15, 1968

Dear Mr.

This letter is sent to you in response to your recent request for a ruling covering the points which we have touched in prior discussions and correspondence regarding the application of the California Sales and Use Tax Law to publishers of loose-leaf reports concerning taxes, business, and other subjects.

The publishers with whom we are concerned typically offer a wide variety of publications. The publications which are the subject of this ruling are initially issued to a subscriber in the form of a loose-leaf volume or volumes and are periodically supplemented with pages containing current information. In some cases, a renewal of a subscription includes replacement volumes which are issued annually. A lump-sum price is ordinarily charged for both the volumes and the periodic supplements.

A subscription of the type described above unquestionably results in a sale for purposes of the Sales and Use Tax Law. A "sale" is defined as a transfer of title of tangible personal property for a consideration. (Revenue and Taxation Code Section 6006.)

The primary question to be considered is whether the initial volumes, the replacement volumes, or the supplements qualify as "periodicals" under Section 6362 of the Revenue and Taxation Code.

Section 6362 provides as follows:

"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 component part of any newspaper or periodical regularly issued at average intervals not exceeding three months and any such newspaper or periodical."

Sales and use taxes Ruling 50 (18 Cal. Adm. Code, Section 1990) interprets Section 6362. The ruling provides in part that the term "periodical" does not include books complete in themselves, even those that are issued at stated intervals.

The initial volumes of loose-leaf reports that are issued to a subscriber and the replacement volumes that are issued annually fall in the same class. These volumes are complete in themselves at the time they are issued. They are issued, moreover, at average intervals exceeding three months. Accordingly, they do not qualify as exempt periodicals.

Since the subscription price for the loose-leaf reports is in a lump-sum, an allocation of the price is required for tax purposes. Such an allocation may properly be based upon the amount which the publisher charges to replace a lost or destroyed volume.

For example, a publisher may offer an eight-volume tax service for \$255, a price which includes periodic supplements for one year. The publisher's normal charge for replacing lost or destroyed volumes is \$8 for the contents plus \$4 for the binder. Under these circumstances, the measure of tax would be \$96 (8 x \$12).

As a further illustration, assume that the same service can be purchased on a renewal basis for \$234. At the time of each renewal, 4 of the 8 volumes are replaced. The measure of tax on the renewal would be \$48 (4 x \$12).

This ruling will be applied effective October 1, 1968, to those publishers in the class covered by this ruling who have not previously been reporting and paying tax as prescribed herein.

Very truly yours,

T. P. Putnam Tax Counsel

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