



STATE BOARD OF EQUALIZATION

(916) 445-6450

February 7, 1992

Dear Mr.

As you know, your October 21, 1991 letter to the State Board of Equalization Audit Evaluation and Planning Unit has been referred to the legal staff for reply.

You publish DollarSense, a quarterly publication which provides articles containing information to help the general public manage money. After reviewing the sample issue you sent for our review, we conclude that DollarSense qualifies as a "periodical" as defined in proposed amendments to Sales and Use Tax Regulation 1590, Newspapers and Periodicals.

We understand that you publish DollarSense in a form which allows you to sell issues to a number of financial institutions. The periodicals you sell to the institutions are identical, but the cover is custom made for each institution. The institutions distribute the periodicals to their customers without charge.

Given this information, you asked whether your sale of the periodicals qualifies for exemption under recently enacted Assembly sill 23X which added section 6362.7 to the Revenue and Taxation Code to provide:

"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 that is distributed without charge and regularly issued at average intervals not exceeding three months, and any such newspaper or periodical."

The issue that arises from the facts you provide is whether your sales of DollarSense qualify for exemption from tax as sales of a "newspaper or periodical that is distributed without charge" when you sell issues to financial institutions. Interpreting section 6362.7 to not apply to your sales would limit the exemption solely to distributions of newspapers or periodicals by the

publisher. We would so construe the exemption if the exemption only applied to the sale or use of tangible personal property which becomes an ingredient of such newspaper or periodical. Given that section 6362.7 provides that the exemption also applies to the sale and use of “any such newspaper or periodical,” we believe that the exemption applies to your sale of the issues of DollarSense to the financial institutions which will distribute them without charge.

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

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD: sr

District Administrator

Audit Evaluation and Planning Unit - Ms. Patricia L. Parker You noted that Mr. Hirsig and Mr. Hendricks are concerned that granting the exemption in this case could lead to situations where a person may attempt to purchase as exempt a copy of a newspaper such as The Sacramento Bee and distribute the copy free of charge. We see a factual difference here. DollarSense is published to be a “periodical that is distributed without charge.” The Sacramento Bee is a newspaper or periodical that is distributed for a charge. A person's buying copies of The Sacramento Bee to distribute without charge does not qualify The Sacramento Bee as a “newspaper or periodical that is distributed without charge.”