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STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 327-3400

June 6, 1991

REDACTED TEXT

Re: REDACTED TEXT

Dear REDACTED TEXT:

I am writing in response to your request for legal advice regarding the applicability of California Sales and Use Tax to "REDACTED TEXT," a publication of your client REDACTED TEXT.

You enclosed "three consecutive issues" of "REDACTED TEXT" which can be described as a four-sided color brochure consisting of approximately half photographs and half text. Much of the text is captions to the pictures. The apparent purpose of the brochures is to solicit funds for REDACTED TEXT. The brochures are not dated.

Except where specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this state. (Rev. & Tax. Code §6051.) Under Revenue and Taxation Code §6362, sales of periodicals "regularly issued at average intervals not exceeding three months" are exempt from sales tax. Sales and Use Tax Regulation Section 1590 (enclosed) defines "periodicals" as:

"...those publications which appear at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues in respect to continuity of literary character or similarity of subject matter and there must be some connection between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series..."

Under the above-quoted Regulation, "REDACTED TEXT" does not qualify as a tax exempt periodical because it does not "appear at stated intervals" not exceeding three months.

Sales and Use Tax Law also provides an exemption from tax for the sale, storage, use or other consumption in this state of catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed sales messages for goods and services. (Rev. & Tax. Code §6379.5 and Reg. 1541.5.) To qualify for the exemption the printed sales message must be:

1. Printed to the special order of the purchaser for the principal purpose of advertising or promoting goods or services;
2. Mailed or delivered by the seller, the seller's agent or a mailing house acting as the agent for the purchaser, through the United States Postal Service or by common carrier;
3. Received by any person, other than the purchaser or the purchaser's agent, at no cost to that person who becomes the owner of the printed material.

"REDACTED TEXT" seeks, from the person receiving it, a contribution "to help feed hungry and hurting children." In our opinion, sales of printed material which solicit donations do not qualify for the printed sales message exemption and sales tax is applicable to the printer's sale of printed matter to your client.

Please feel free to contact us again if you have further questions.

Sincerely,

Stella Levy
Tax Counsel

SL:cl
Enclosure

bc: Arcadia District Administrator