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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) 445-6450

March 29, 1990

REDACTED TEXT

RE: REDACTED TEXT

Dear REDACTED TEXT:

This is in reply to your February 13, 1990 letter regarding the application of sales and use tax to your sales of calendars. You note the following facts:

“We are distributors of Advertising Specialties. We have a customer (REDACTED TEXT) in Newport Beach who each year orders 2000 calendars with special tide tables overprint on the calendar pad.

“We order the catalogs through a factory in Missouri and these calendars are shipped singly by the factory to the end-user (customers of REDACTED TEXT).”

You note that REDACTED TEXT suggests that your sales of the calendars are exempt from tax pursuant to Sales and Use Tax Regulation 1541.5, Printed Sales Messages. Specifically, you sent a copy of the regulation and highlighted the following words of subdivision (a)(1) of the regulation which defines the term “printed sales messages”:

“‘Printed Sales Messages’....The term does not include...calendars... unless they meet the principal purpose of advertising or promoting goods or services.”

We disagree that calendars qualify as printed sales messages. On August 10, 1987, the State Board of Equalization published a Notice to Interested Parties concerning amendments to proposed Regulation 1541.5. That notice provided that, “subdivision (a)(1) is amended to...provide that excluded from the definition of printed sales messages are directories unless they meet the principal purpose of advertising or promoting goods or services.” Therefore, we believe that the phrase “unless they meet the principal purpose of advertising or promoting goods or services” modifies the word “directories” and not the word “calendars”. Calendars are printed for the principal purpose of reference, and we believe that is especially true where, as in the fact you

note, the calendars also contain tide tables. Therefore, we do not believe that your sales of calendars would be exempt from tax as sales of "printed sales messages".

However, we believe that there is another basis upon which your sales of the calendars to REDACTED TEXT are nontaxable. Since the calendars are shipped from the out-of-state factory directly to the customers of REDACTED TEXT, your sale occurs outside California, and sales tax does not apply. If you made an out-of-state sale to REDACTED TEXT of tangible personal property which REDACTED TEXT would use in California, REDACTED TEXT's use of the property in California would be subject to the use tax. (Rev. & Tax. Code §§ 6201, 6202.) Since you are a retailer engaged in business in this state, you would be responsible for collecting the use tax from REDACTED TEXT and paying the tax to this state. (Rev. & Tax Code §§ 6203, 6204.) However, since REDACTED TEXT directs that the calendars be placed in the mail out of state, title to the calendars passes to REDACTED TEXT's customers at that time. REDACTED TEXT's use of the property is solely outside California and REDACTED TEXT is not liable for use tax. (Bus. Taxes Law Guide Annot. 280.0360.) Accordingly, you are not liable for payment of sales tax nor collection of use tax on the sale of calendars under the facts provided in your letter.

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

Very truly yours,

Ronald L. Dick
Tax Counsel

RLD:sr

bc: San Bernardino District Administrator