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March 18, 1992

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*Executive Director*

Ms. C--- L. P---, CPA  
H---, M--- & P---  
XX North --- Avenue, Suite XXX  
---, CA XXXXX

Re: A--- P--- E---, Inc.

Dear Ms. P---:

This is in reply to your February 18, 1992 letter regarding the application of sales tax to the sale of printing to your client, A--- P--- E---, Inc. (A---), under the following facts.

You explained that A--- markets advertising space for local businesses on cash register tapes used in various stores. The company supplies the cash register tapes, at no cost, to the stores under various agreements and understandings, which generally have a one to three year term.

Presently, A--- purchases the paper and pays sales tax reimbursement to the vendor. A--- designs and prints the advertisements to the customers' specifications. A--- then distributes the cash register tapes to the various stores. The tapes apparently contain coupons which run for a specific timeframe based on A---' agreement with the customer. The coupons are distributed cost-free to the public when the public purchases merchandise from the stores. A--- has now discovered that it would be cost efficient for it to use an outside printer.

Given this information, you noted that you have received conflicting advice as to whether the printer's sale of the printing of the cash register tapes may qualify for exemption from sales tax under Sales and Use Tax Regulation 1541.5, Printed Sales Messages.

We agree with the analysis provided to you by Senior Tax Auditor John Duncanson in his December 3, 1991 letter. Mr. Duncanson informed you that, as defined in subdivision (a)(1) of Regulation 1541.5, printed sales messages do not include "cash register tapes." The relevant sentence of the regulation provides:

“The term does not include campaign literature and other fund-raising materials, stationery, reply envelopes, except as provided for in (b) of this regulation, order forms, sales invoices, containers for sample merchandise, newspapers or periodicals, calendars, notepads, cash register tapes, or directories unless they meet the principal purpose of advertising or promoting goods or services.”

You disagree with Mr. Duncanson’s conclusion that the words, “...unless they meet the principal purpose of advertising or promoting goods or services” applies only to directories. We agree with Mr. Duncanson. When 1542.5 was originally drafted, the referenced sentence did not include the language following the words “cash register tapes.” See the photocopy of the January 22, 1987 version attached. At the request of publishers of certain directories, the Board added the words “or directories unless they meet the principal purpose of advertising or promoting goods or services” to allow certain directories (e.g., “Yellow Pages”) to qualify as printed sales messages when the principal purpose of the publication of the directories was to advertise or promote goods or services. However, it has been our consistent opinion that cash register tapes do not qualify as printed sales messages.

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

Very truly yours,

Ronald L. Dick  
Senior Tax Counsel

RLD:sr

Enc.