



STATE BOARD OF EQUALIZATION

916-445-6450

May 24, 1989

X-----

Dear X-----,

This is in reply to your March 30, 1989 letter in which you asked whether sales of printed materials by X----- are exempt from sales tax pursuant to 1986 Senate Bill 2527 which added section 6379.5 to the Revenue and Taxation Code.

The State Board of Equalization has interpreted section 6379.5 and adopted Sales and Use Tax Regulation 1541.5, Printed Sales Messages, a copy of which is enclosed for your information.

Generally, in order for the sale of printed materials to be exempt under Regulation 1541.5, the materials must first qualify as "printed sales messages"; that is, they must be catalogs, letters, circulars, brochures, and pamphlets printed for the principal purpose of advertising or promoting goods or services. (Reg. 1541.5, subd. (a)(1).) In such case, operative January 1, 1987, tax does not apply to the sale or use of the printed sales messages provided, they are:

- (1) Printed to the special order of the purchaser;
- (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 other person at not cost to that person who becomes the owner of the printed material. (Reg. 1541.5, subd. (b).)

You sent a number of items of advertising printed matter which you prepared for X----- . We have numbered each of items in red for identification purposes.

We believe that items numbered 2, 3, 4, 5, 8, 9, 10, 11, and 14, all qualify as "printed sales messages" that were printed to the special order of X----- . Your sale of such printed sales messages to X----- is exempt if you, your agent, or a mailing house, acting as the agent for X----- mail or deliver the printed sales

messages through the United States Postal Service or by common carrier to third persons at no cost to those persons who become the owners of the printed sales messages.

Items numbered 6 and 7, entry blanks for drawings, would not qualify as printed sales messages unless such items were stapled, glued, or otherwise affixed to the printed sales message in such a manner that it becomes a component or integral part of the printed sales message and is sold together with the printed sales message. (Reg. 1541.5, subd. (b)(8).)

Item 12 is a request for comments and, in our opinion, is not printed for the principal purpose of advertising or promoting goods or services.

Item 13 is a sign which apparently X----- would not place in the store above "Customer Comment Letters" and would not either be a "printed sales message" nor be delivered to third party recipients pursuant to subdivision (b)(3) of Regulation 1541.5.

Item 1 appears to be an envelope which you sell to X----- and which will enclose a printed sales message. Tax does not apply to your sales of such envelopes when sold with the printed sales messages for shipment or delivery. (Reg. 1541.5, subd. (b)(7).)

If you deliver part of the printed sales messages through the postal service or by common carrier to the donees and deliver part of the printed sales messages to X----- -- tax does not apply to your charge for the part delivered in accordance with the regulation, and tax does apply to the charge for the part delivered to X-----.

You asked whether the printing of a bulk rate indicia automatically qualifies the sale as exempt. No, as noted above, the printed matter must qualify as a "printed sales message." Further, if you sell printed sales messages to a customer and deliver the printed sales messages to the customer, the sale would be taxable notwithstanding your printing of the bulk rate indicia.

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

Very truly yours,

Ronald L. Dick
Tax Counsel

RLD:sr

Encs.

Bc: Oakland District Administrator