

432.0032**Memorandum**

To: Mr. James Black
Audit Evaluation and Planning

Date: April 26, 1990

From: Ronald L. Dick
Tax Counsel

Subject: REDACTED TEXT

This is in reply to your February 27, 1990 memorandum in which you asked for our opinion regarding the conclusions reached by Supervising Tax Auditor David Pidal in his February 22, 1990 memorandum to you. Mr. Pidal provided the following facts:

“The taxpayer has the printer print the pages of the telephone directory and mailing labels. The taxpayer then has the printed pages and mailing labels sent to the bindery for binding and affixing the mailing labels. The completed telephone directories are then either sent to the Post Office for mailing or the taxpayer will pick up them for distribution by other means. The telephone directories are distributed free of charge to another person who becomes the owner of the telephone directory.”

We understand that the taxpayer to which Mr. Pidal refers is REDACTED TEXT. Mr. Pidal has concluded that the bindery charges and printing charges are exempt from tax under Sales and Use Tax Regulation 1541.5, Printed Sales Messages.

We assume that there is no question that the telephone directories at issue qualify as printed sales messages. Subdivision (a)(1) of Regulation 1541.5 specifically excludes from the definition of printed sales messages, “directories unless they meet the principal purpose of advertising or promoting goods or services.”

So, again assuming the directories are printed sales messages, we believe that, if the printer delivers the directories to a carrier, rather than to REDACTED TEXT, for delivery to the bindery, the sale by the printer of the printed sales messages qualifies for exemption. The mailing labels are not affixed to the printed sales messages at the time of the sale and, therefore, are not at that time component parts of the printed sales messages; however, the charge for addressing the labels is nontaxable. See Sales and Use Tax Regulation 1504, Mailing Lists and Services.

You did not explain what type of binding material the bindery provides. We assume that the bindery merely stitches or staples the printed sales messages. In such case, the charge for the binding is a fabrication of the printed sales messages. We believe the charge is exempt under Regulation 1541.5 provided the bound printed sales messages are both (a) mailed or delivered by the bindery, the bindery's agent or a mailing house acting as the agent for REDACTED TEXT, through the United States Postal Service or by common carrier; and (b) received by the donee at no cost in accordance with Regulation 1541.5, subdivision (b)(2) and (3). If you have any questions regarding this, feel free to contact me directly.

RLD:sr