

**STATE BOARD OF EQUALIZATION**

(916) 445-8485

June 13, 1988

Ms. K--- F. G---
Executive Director
L--- A--- T--- L--- A---
XXXX --- --- ---, Ste. XXX
--- ---, CA XXXXX

Re: SR -- XX-XXXXXX

Dear Ms. G---:

This is in response to your letter to the Board's legal staff dated April 11, 1988. You have requested our opinion as to whether the sale of educational brochures to the L--- A--- T--- L--- A--- is exempt from sales tax as a sale of printed sales messages pursuant to Revenue and Taxation Code section 6379.5.

As we understand the facts, the L--- A--- T--- L--- A--- (L---) organizes seminars where educational opportunities germane to the trial setting are presented. To facilitate these programs, L--- purchases and distributes or distributed certain brochures. Each of the four enclosed brochures promote the respective seminars by illustrating the educational offerings, speakers, itinerary, and a registration form. In addition, each brochure allows its recipient the opportunity to apply for membership in the L---.

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers for all retail sales of tangible personal property in this state (Revenue and Taxation Code section 6051).

Section 6379.5 of the Revenue and Taxation Code provides an exemption from tax for the sales, 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. To qualify for the exemption, the printed sales messages 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 of the printed material, the seller's agent or a mailing house acting as the agent of the purchaser, through the United States Postal Service or by common carrier.
- (3) Received by any person, other than the purchaser or purchaser's agent, at no cost to that person who becomes the owner of the printed material.

After examination of the enclosed brochures it is readily apparent that they are printed to the special order of L---; they are printed for the principal purpose of advertising; and the recipient of the brochures receives them at no cost and becomes the owner thereof. However, the method of distribution is unclear. Section 6379.5 and Sales and Use Tax Regulation 1541.05 which interprets and applies section 6379.5 require that in order for the sales to qualify as exempt, the printed sales message must be mailed or delivered by the seller, the seller's agent, or mailing house to the recipients who become the owners at no cost.

Provided the brochures are distributed in the manner prescribed by Revenue and Taxation Code section 6379.5 and Sales and Use Tax Regulation 1541.5, it is our opinion that the sales to L--- are exempt from tax. Under such circumstances, you should issue your printer an exemption certificate in the form set out in Regulation 1541.5(c). Your issuance of the exemption certificate to the printer will enable your printer to report his sales to you of the printing of the brochures as nontaxable transactions. Needless to say, if delivery of the brochures is other than as described in the code and regulation, the sales would not qualify as exempt.

I have enclosed a copy of Regulation 1541.5 (Printed Sales Messages) which should answer any questions as to the format of the exemption certificate. If you have any further questions, please feel free to write again.

Very truly yours,

E. L. Sorensen, Jr.
Senior Tax Counsel

ELS:md
Enclosure