

**STATE BOARD OF EQUALIZATION**

(916) 445-8485

January 27, 1988

Ms. D--- A. M---
E--- P--- C---
P.O. Box XXXX
--- ---, CA XXXXX

Re: S- -- XX-XXXXXX

Dear Ms. M---:

This is in response to your letter dated November 25, 1987 to the Board's legal staff regarding the application of tax on envelopes you print for a party in which that party's advertising material is contained. I must note that the legal unit only issues opinions whereas the Board itself issues rulings.

As we understand the facts, E--- P--- C--- is a commercial printer specializing in envelopes. It supplies envelopes that will ultimately contain advertising material. In doing so, E--- S--- C--- supplies only the envelopes and not the printed advertising material. Once the envelopes are printed to the specifications of the party whose advertising will be contained therein, E--- S--- C--- then delivers the envelopes to a mailing house for distribution through the U.S. Mail.

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this State (Rev. & Tax. Code § 6051). Likewise, use tax is imposed on the storage, use, or other consumption in California of tangible personal property purchased from any retailer for storage, use or other consumption in California unless otherwise exempted from taxation by statute (Rev. & Tax. Code § 6201). However, use tax is never imposed as a duplicate tax along with sales tax because any use of property in California is exempt from use tax if the gross receipts from the sale of the property are included in the measure of the sales tax (Rev. & Tax. Code § 6401).

Your letter mentioned that you are of the opinion that the envelopes used in the above-mentioned transactions are exempt from sales tax pursuant to Revenue and Taxation Code section 6379.5. Section 6379.5 provides:

There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the 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 printed to the special order of the purchaser and mailed or delivered by the seller, the seller's agent, or a mailing house, acting as an agent for the purchaser, through the United States Postal Service or by common carrier to any other person at no cost to that person who becomes the owner thereof.

Sales and Use Tax Regulation 1541.5 was promulgated in order to explain and interpret section 6379.5. Regulation 1541.5(b)(3) states "...tax does not apply to charges for containers, such as envelopes or wrapping paper, when sold with the printed sales messages for shipment or delivery, or when sold to persons who place the printed sales messages in the container and sell the printed sales messages together with the container...."

With respect to section 6379.5 and Regulation 1541.5, it is our opinion that the supplying of envelopes in the form mentioned in the facts is a transaction in which sales tax is applicable. Although E--- P--- C--- sells the envelopes, it does not sell the advertising material contained therein nor does E--- S--- C--- sell the envelopes to persons who place the advertising message in the envelope and who sell the printed advertising together with the envelope.

If you have any further questions, please feel free to write again.

Very truly yours,

E. L. Sorensen, Jr.
Senior Tax Counsel

ELS:md