



STATE BOARD OF EQUALIZATION
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(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 324-3828

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November 5, 1993

X-----

Re: X-----

Dear X-----,

This is in response to your letter of September 16, 1993 regarding the taxable status of a telephone directory printed by X-----.

Your letter states that the Yellow Page section, the coupon section, the Spanish listings in red, and the bold listings in the white section are paid advertisements. A distributor hired by your customer picks up the directories from your plant. We assume that your inquiry is whether sales tax applies to X-----'s charges for the sale of the telephone directory.

Revenue and Taxation Code section 6051 imposes a sales tax on all retailers measured by their gross receipts from retail sales of tangible personal property. Unless a specific exemption applies, sales of the telephone directory by X----- are taxable.

Revenue and Taxation Code section 6379.5 provides an exemption for sales of printed sales messages 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 other common carrier to any other person at no cost to that person who becomes the owner of the printed material. The relevant terms of the exemption are explained in Regulation 1541.5 (copy enclosed).

Subdivision (a) (1) of. Regulation 1541.5 defines "printed sales messages." The term does not include directories unless they meet the principal purpose of advertising or promoting goods or services. The Board has taken the position that a directory qualifies as a "printed sales message" if more than one-half of the directory consists of such advertising.

Enclosed with your letter was a copy of the telephone directory at issue. This directory contains approximately 302 pages, 138 of which are directory listings and 164 of which are advertisements. Since more than 50% of the printed area is advertising of promoting goods or services, the directory does qualify as a printed sales message. You mention in your letter that you believe that the bold listings in the white pages as well as the Spanish listings in red are paid advertisements. Because these appear along with the other listings and are also just listing, we do not regard these pages with the bold listings as advertisements. Nevertheless, the telephone directory qualifies as a printed sales message because the advertisements in the yellow pages and the coupon section in the back makeup more than 50 percent of the directory.

If the purchaser does not obtain possession of the directories and they are delivered by the purchaser's distributor mentioned in your letter to another person at no cost to that person, then X----- sales of the directory are exempt from sales tax.

If you have any further questions, please do not hesitate to write again.

Sincerely,

Ms. Sukhwinder K. Dhanda
Staff Counsel

SKD:plh

Enclosure – Reg. 1541.5