

**STATE BOARD OF EQUALIZATION**

(916) 445-5550

February 11, 1988

Ms. R--- K. S---
[dba name]
XXXX --- ---
--- ---, CA XXXXX

Re: SR -- XX-XXXXXX

Dear Ms. S---:

This is in response to your letter dated January 21, 1988 in which you ask how sales tax applies to the following transactions:

“My business has two types of operations. #1: I sell personalized computer books to the public and charge sales tax. On these books I understand that I report those sales to you. #2: I have received donations from private parties to set up a program for the Ronald McDonald House and Childrens’ Hospital. This program is called ‘G---.’ Each time a child is hospitalized or stays at the House, I make a personalized book for the child and mail it to him or her. I do not sell it to them; it is a gift. I also donate 25% of all collected funds to the Ronald McDonald House. In addition private individuals and businesses donated money for my ‘G---’ program for children in the local schools. The teachers provide me with an information form on each child and I prepare their books. These books were given as gifts. 25% of all the funds collected were donated back to the schools.”

You explained by telephone on January 29, 1988 that, although your donors understand in general how their donations are to be used, there is no contractual relationship under which you are required to give the books described in your second type of operation. I also understand that you purchase most of your supplies extax for resale and that your inventory is commingled (supplies for making the books are not separated by the two types of operations).

As you know, you may purchase the supplies actually incorporated into the books you sell (your first type of operation) extax by issuing resale certificates. You must report sales tax measured by the full sale price of these books. If you have paid sales tax reimbursement to your vendor for any items incorporated into these books, you may take a tax-paid purchases resold deduction on line 10 of your sales and use tax return. (Reg. 1701.)

The remainder of this opinion relates to your second type of operation. Since you are not contractually obligated to give the books and you receive no consideration when you do so, we conclude that you do not sell them. Rather, you are a consumer of the materials incorporated into the books. Generally, you may not purchase property extax by issuing resale certificates when you will consume that property. If, however, you purchase the property for your inventory when it is commingled between property you will resell and property you will consume, you may issue resale certificates provided you do not know at the time of purchase which specific property will be consumed.

With regard to any property purchased extax which you use, you owe use tax measured by your purchase price. This should be reported on line 2 of your sales and use tax return for the period in which you remove such property from your resale inventory. With regard to any property you use for which you paid your vendor sales tax reimbursement, no further tax is due.

If you have further questions, feel free to call or write me.

Sincerely,

David H. Levine
Tax Counsel

DHL:ss