

(916) 445-6493

August 17, 1987

Data base information – computerized lists of menus

Dear REDACTED TEXT:

In your June 30, 1987 letter to the Board's legal staff, you write that the Board's Auburn office advised you to request an opinion regarding whether your business transactions will be subject to sales tax. You write:

“The nature of my business deals in a computer service rather than goods. I have compiled a data base of various allergen-free diets; when an allergist refers a patient to me, I will (for a fee) provide that individual with a computerized list of menus (i.e., compilation of medically allowed foods) compatible with whatever specialized diet his/her physician has prescribed.

“There are no products or inventory involved: no sales of special foods, literature, devices, etc. It could be compared with the service rendered by a tax preparer, who takes information, runs it through a computer, and hands the client a finished product; but it is still considered dealing in a service rather than goods.”

Opinion

Our opinion is that sales or use tax does not apply to your charges for providing original information to your customers, consisting of individually prepared computerized lists of menus from your data base of allergen-free diets. Our view is that this is a service transaction in which the true object of the contract is the transfer of original information, and not the transfer of the tangible property on which the information is printed. (See Regulation 1501). However, we note that if you were to also sell multiple copies of these computerized lists of menus, either to your original customer, or to other customers, then your sales of these copies would be subject to tax.

I enclose for your information a copy of Regulation 1501. Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott
Tax Counsel