



February 28, 1989

REDACTED TEXT

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Time keeping and billing service

Dear REDACTED TEXT:

In your October 25, 1988 letter to the Board, which was referred by our Compliance Planning Unit to the legal staff for response, you relate that you recently applied at the Board's San Francisco office for a seller's permit, and that office suggested you contact the Board's headquarters in order to receive a written ruling concerning how the sales and use tax applies to your business.

You write:

"REDACTED TEXT is a new business which provides a time keeping and billing service to certified public accountants (CPAs), designers, engineers and other service businesses.

"Our clients have their employees record the amount of time spent working on distinct tasks throughout the course of the day. Based upon these time sheets we provide our clients with information which assist them in making billing decisions. Then, based upon their decisions, we generate their bills. In addition, we provide a variety of original management reports, such as client accounts receivable, employee chargeability and productivity and fee analysis. Our business is similar to the processing of accounting data by such vendors as ADP and Safeguard Business Systems.

"A secondary and unrelated phase of our business will be the sale of computer software to a limited number of clients. We may also provide technical assistance and training related to software installation and operation.

“We request that you find the primary business of REDACTED TEXT to be non-taxable under the provisions of Regulation 1502(d)(5), and that you provide us with a written determination.”

Opinion

We agree with your contention that Regulation 1502(d)(5) applies to your timekeeping and billing services to your clients. In summary, Regulation 1502(d)(5) describes the processing of customer-furnished information as the developing of original information from data furnished by the customer. Contracts for the processing of customer-furnished information are considered to be for the rendition of a service, not the sale of the tangible property on which the information is transmitted or recorded. In your situation, where you receive time sheets from your clients and in return generate their bills and provide management reports, you are providing a nontaxable service for your clients and you are the consumer of the tangible property you use to produce the bills and management reports. Accordingly, tax applies to your purchases of these items for your use in providing these services.

Your sales of computer software are subject to sales or use tax (Regulation 1502(f)(1)). If you provide technical assistance and training as optional services in conjunction with your sales of computer software, tax will not apply to those charges. (Regulation 1502(e) and (g)). If you provide training materials for a charge separate from your charges for training services, tax will apply to those charges. (Regulation 1502(e)(2)). Tax does not apply to your charges for installing the software you sell. (Regulation 1502(f)(1)(E)).

I enclose a copy of Regulation 1502 for your information. Please feel free to contact me if you have further questions or comments about this letter.

Sincerely,

John Abbott
Tax Counsel

JA:jb
Enclosure