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July 17, 1996

REDACTED TEXT

Dear REDACTED TEXT,

Your letter to Mr. Robert L. Buntjer, Supervisor of Audit Review and Refunds, dated October 3, 1995, has been referred to me for response. We apologize for the extended delay in our reply. The application of tax to the sale of information extracted from databases has been undergoing extensive review by this agency.

You request a reconsideration of the opinion given by Mr. George E. Komura, Senior Tax Auditor, in a letter dated July 10, 1995, regarding the application of sales tax to foreclosure lists provided by REDACTED TEXT to its subscribers.

You state that REDACTED TEXT is a foreclosure listing service in California. REDACTED TEXT employees accumulate public information available from the County Recorder's offices. Such information includes Notices of Default, Notices of Trustee's Sale, Notices of Trustee's Deed, and federal and state tax liens. REDACTED TEXT also links information obtained from the County Assessor's offices to the information obtained from the County Recorder's offices. The information obtained from the County Assessor's offices includes the date that property was sold, selling price, assessed value and square footage.

REDACTED TEXT subscribers receive foreclosure listings in a standardized format, i.e., a subscriber may choose to receive information on Notices of Default in REDACTED TEXT County for \$49.95 per month or a subscriber may choose to receive information on Notices of Default, Notices of Trustee's Sale and Notices of Trustee's Deed for all eight counties in REDACTED TEXT California for \$519.95 per month. In addition, a subscriber may specifically request "custom specialty listings" for particular information other than the standardized reports. For example, a subscriber may request all foreclosures in the city of REDACTED TEXT during a particular period of time on single family residences with square footage between 2,000 and 2,500 square feet. Each subscriber has the option to receive any of the foreclosure listings through electronic transmission on a daily basis or through the United States mail on a daily or weekly basis.

You state that you agree with Mr. Komura's conclusion that where REDACTED TEXT subscribers receive foreclosure listings through electronic transmission and do not obtain possession of any tangible personal property, such transactions are not subject to tax. With respect to foreclosure listings delivered through the mail, you agree with Mr. Komura's conclusion that where REDACTED TEXT provides a subscriber with a custom specialty listing based on the subscriber's specific request for

particular information, REDACTED TEXT is performing information research which is a nontaxable service. However, you disagree with Mr. Komura's conclusion that standardized reports delivered through the mail constitute sales of tangible personal property subject to tax. We thus address whether REDACTED TEXT provision of standardized reports delivered through the mail constitutes taxable sales of tangible personal property.

We concur with Mr. Komura's analysis and conclusion that tax applies to the subscription fees charged for standardized reports delivered through the mail. As explained by Mr. Komura, REDACTED TEXT is selling information in the form of tangible personal property. The real object sought by the subscriber is the report (foreclosure listings) itself which has intrinsic value due to the information it contains. REDACTED TEXT subscribers are not purchasing your client's services per se; instead, they are purchasing the reports produced by the service. "Therefore, upon reconsideration, we affirm Mr. Komura's conclusion that REDACTED TEXT provision of standardized reports to its subscribers through the mail constitutes sales of tangible personal property subject to tax.

If you have any further questions, please write again.

Sincerely,

Sophia H. Chung
Tax Counsel

SHC:rz

REDACTED TEXT

cc: Mr. Robert L. Buntjer
Mr. George E. Komura
REDACTED TEXT