

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
(916) 324-3828

May 8, 1992

Mr. T--- H---  
--- & ---  
XX --- Street  
--- ---, CA XXXXX

Re: SR -- XX-XXXXXX  
S--- C--- V---

Dear Mr. H---:

I am writing this to answer your letter to me of April 10, 1991. You have requested an opinion as to whether tax applies to sales of meals at a fund-raising event which your client is holding on behalf of a religious organization.

I. FACTUAL BACKGROUND

Your client, S--- C--- V--- [SCV], is holding a fund-raising event on behalf of S--- M--- C--- ("S---"). You further describe the situation as follows:

- "1. S--- is a religious organization as described in California Sales and Use Tax Code Section 6363.5. It has received a property tax exemption as such under California Property Tax Code Section 214.
- "2. Under the auspices of S---, SVC is staging a fundraiser.
- "3. The fundraiser consists of an all-day croquet tournament. Tickets for the tournament are \$90.
- "4. Tickets for the tournament include admission to the tournament, lunch, and a wine-tasting.
- "5. The lunch is prepared by an outside caterer.

“6. Wines for the wine-tasting are donated by several wineries and individuals.

“7. A wine auction is also conducted during the day.

“8. In conjunction with the wine auction, a separate rare wine tasting will be held. A fee will be charged for tasting these rare wines.”

Based on the above facts you indicated that it was your belief that tax applied to the wine auction sales and to the charge for the wine tasting; the sales of meals were exempt under Revenue and Taxation Code Section 6363.5; the portion of the admission price attributable to the entertainment is excluded from tax; and the winery is responsible for use tax on the wine donated for the auction and tasting. (Unless otherwise stated, all further statutory citations are to the Revenue and Taxation Code.)

## II. OPINION

### A. Religious Fundraisers

As you are aware, Regulation 1603(l), interpreting and implementing Section 6363.5, provides as follows:

“RELIGIOUS ORGANIZATIONS. Tax does not apply to sales of meals and food products for human consumption furnished or served by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on such functions and activities. For the purposes of this regulation, “religious organization” means any organization the property of which is exempt from taxation pursuant to Subdivision (f) of Section 3 of Article XIII of the State Constitution.”

Complicating the situation in this case is Regulation 1603(d), interpreting and implementing Section 6359(d)(4), which provides generally as follows:

“Tax applies to sales of food products when sold within, and for consumption within, a place the entrance to which is subject to an admission charge, during the period when the sales are made, except for national and state parks and monuments, and, operative January 1, 1986, marinas, campgrounds, and recreational vehicle parks.”

These two portions of the regulation seem to conflict. As you ask, does 1603(d) operate to negate the exemption provided in 1603(l)?

We have previously decided that it does not. The question was raised with regard to a similar event held by S---. Attached hereto with the author's permission is a memorandum written by Senior Tax Counsel Mary C. Armstrong to Mr. John Emmett of our Return Review Section dated February 7, 1990, discussing the issues raised by S---' event at that time. Her memorandum answers two of your questions:

- (a) Tax applies to the sales of the wine and the tasting charge; and
- (b) The portion of the admission price which represents the price of the meals is exempt from tax.

1. Admissions Charge.

In the past we have determined that charges for admission to a place furnishing entertainment which is billed separately from the charges for meals were exempt from tax. (See, e.g., Annot. 550.0680.) Board of Equalization Pamphlet No. 18, "Tax Tips for Volunteer and Nonprofit Fund Raising Organizations" discusses on page 6 the guidelines for proper segregation of the charges for meals from the charges for entertainment as follows:

"Organizations should pay special attention to events which provide food, drinks, prizes, and admission to entertainment for lump-sum amount designated as a donation. In general, where no segregation is made of the charges for the different items covered by the "ticket donation", the proper measure of tax is the total amount of the donation."

The above discussion correctly states Board policy with regard to the sale of tickets for religious fund-raising events which provide both meals and entertainment. A clear segregation of charges must be made on the ticket for taxable and exempt items, otherwise the measure of tax for the wine-tasting will be the entire admissions charge. If proper segregation is made, we agree with you that, after deducting the price of the meals, the remaining portion of the \$90 that is over and above the charge for the wine-tasting is exempt from tax.

As noted above, the segregation must be made on the ticket. If, however, the tickets have already been printed or are not printed but the intended contents cannot be changed, the allocation for meals and entertainment will be allowed if S--- can demonstrate the allocation through its records. For future events, though, you should inform S--- of the necessity for making the segregation on the ticket.

2. Tax on Wine Sales and Tasting.

Regulation 1670(a) provides that the donor of a gift is the consumer. In this case several wineries and individuals are donating wines S---. They are thus the consumer of the wines they donate. The measure of tax to the wineries is the production cost to the wineries. Presumably the individuals paid tax reimbursement when they bought the wines, and no tax liability attaches to them for their donations.

For your information, I have enclosed a copy of Pamphlet No. 18. I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid  
Tax Counsel

JLW:es

1067I

Enc.: Pamphlet No. 18

cc: Mr. T--- E---

S--- C--- W---

XXXX --- Road

---, CA XXXXX