

Memorandum

To: Mr. Joseph Young
Hayward Branch Office Supervisor

Date: December 18, 1990

From: Ronald L. Dick
Senior Tax Counsel

Subject: REDACTED TEXT, Inc.
SR CHA REDACTED TEXT

Your November 15, 1990 memorandum to Senior Tax Counsel John Abbott regarding the application of sales tax to charges for plastic copy cards and photocopies has been referred to me for reply.

You note the following facts:

“Taxpayer is in the business of selling photocopies through coin- and card-operated copy machines. These copy machines are located in municipal libraries, large retail drug stores, college libraries, military installations and other professional offices.

“At a card-operated copy machine, the customer who desires to purchase photocopies is required to purchase a plastic copy card that is magnetically encoded with pre-determined denominations that entitles the card holder to a certain number of photocopies. Sales tax is generally charged by the taxpayer on the selling price of the copy card (price is determined by the number of photocopies that can be made with the card). To activate the copy machine, the customer inserts the copy card into the machine, when the copying is completed, an amount representing the number of copies made, is deducted from the copy card electronically. The card would be returned to the customer in the same manner as a BART transit ticket with the exception that when the value of the copy card is depleted, the copy card is returned to the customer for his/her disposal.”

Given these facts, you asked the following questions:

“1. With regards to the plastic copy cards, is the taxpayer the retailer of the cards as well as the photocopies or is the taxpayer the

consumer of these cards as they are being used as a medium of exchange?"

We agree with your conclusion that the taxpayer is the consumer of the copy cards. When a printer sells coupons and cards to be used as indicia to purchase other tangible personal property, sales tax applies to the printer's sale of the coupons and cards. The sale of the copy card by the taxpayer does not constitute the sale of tangible personal property, as that term is defined in Revenue and Taxation Code section 6016. Rather, by purchasing the copy card, the taxpayer's customer is paying in advance for a certain number of copies which are tangible personal property. The copies are then made at the customer's convenience. Therefore, sales tax applies to the taxpayer's sale of copies, as represented by the sale of the copy card. The taxpayer may properly collect sales tax reimbursement from the customers when the customers purchase the cards from the taxpayer.

"2. Per Regulation 1574, (b)(1)(A), the taxpayer is considered the consumer of photocopies sold at retail through a coin- or card-operated copy machine located at a library facility pursuant to a contract with a library district, municipal library, or county library. Does machine located in a college library pursuant to a contract with the college library qualify the taxpayer as a consumer of photocopies sold at retail through a coin- or card-operated copy machine?"

After sending your memorandum, you contacted us and noted that Tax Counsel Robert Stipe answered this question in a February 24, 1986 letter to Mr. REDACTED TEXT of REDACTED TEXT affiliates and took the position that, a state university, college or community college library does not fall within the provisions of Regulation 1574, subd. (b)(1)(A).

If you have any further questions regarding this, feel free to write directly to me.

RLD:sr

bc: Oakland District Administrator