



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

March 17, 1992

Mr. REDACTED TEXT
Attorney at Law

RE: REDACTED TEXT
SR JH REDACTED TEXT

Dear Mr. REDACTED TEXT:

As you know, your letter dated March 3, 1992 to our Santa Rosa District Office has been referred to the Legal Division for response. You inquire as to the application of tax to your client's business. Your client is a nonprofit organization who sells candy out of boxes. You explain:

"The position maintained by our client is that the boxes are akin to a vending machine in that the purchaser of the candy deposits 10 cents into the box and withdraws the candy of his own selection. Further, the similarity of our client's box and the vending machine is that there is no one on site that can collect any sales tax."

You believe that your client is a consumer of the candy sold from the box under Revenue and Taxation Code section 6359.4 (sales of food products, including candy and confectionery, from a vending machine for fifteen cents or less), or alternatively, under Revenue and Taxation Code section 6359.45 (sales of property from a vending machine for fifteen cents or less by a nonprofit organization).

Application of sales tax to sales of property through vending machines is discussed in Regulation 1574, a copy of which is enclosed. Subdivisions (b)(1)(B) and (b)(1)(C) state that the statutory provisions you cite apply when the property in question is "dispensed" through vending machines. While there may be similarities between your client's sales out of a box and sales through vending machines, the box in question is not a vending machine but rather a container. The dictionary definition of "vending machine," which coincides with the common understanding of a vending machine, is "a machine that dispenses small goods upon the deposit of a coin or coins in a slot." (See American Heritage Dictionary of the English Language (1988) 1420. See also Webster's New World Dictionary, Third College Edition (1969) 985.) That is, a vending machine responds to the insertion of money by dispensing (i.e., physically releasing) the goods sold through the machine.

We conclude that the boxes about which you inquire are not vending machines within the meaning of sections 6359.4 and 6359.45. Your client may wish to sell the items on a tax included basis. This is explained in Regulation 1700, a copy of which is enclosed. (See also reg. 1574(a).) If you have further questions, feel free to write again.

Sincerely,

David H. Levine
Senior Tax Counsel

DHL:cl
0647E

Enclosures

bc: Santa Rosa District Administrator