

M e m o r a n d u m**702.0010**

To: Mr. Larry Micheli, Supervisor
Local Revenue Allocation Section

Date: August 8, 1997

From: Ani Kindall
Senior Tax Counsel

Subject: Access to Confidential Information
Consultant for the City of [X]

Your August 4, 1997 memorandum to Assistant Chief Counsel Mary C Armstrong regarding the above subject has been assigned to me for reply.

You recently become aware that the contract between the City of [X] (the City) and its tax consulting firm expired on June 1, 1997. In reviewing Revenue and Taxation Code Section 7056(b)(1)(A), you note that as a condition of releasing confidential information to the consultant there must be an existing contract with the city. However, the statute does not directly address the situation where the Board knows that the contract is no longer valid, but the resolution authorizing examination of the information by the consultant has not been rescinded. You have asked: Should the Board discontinue supplying confidential information to the local jurisdiction's consulting firm once the Board receives notification that the jurisdiction's contract with the consultant has expired or been terminated? Is another resolution needed to stop the information, or is written notification that there is no longer a contract between the jurisdiction and the consultant sufficient?

As you know, in order for the Board to legally provide confidential sales and use tax information to a person other than an officer or employee of the local jurisdiction, a resolution must exist which certifies that the consultant "[h]as an existing contract with the ... city ... to examine ... sales and use tax records." (Section 7056(b)(1)(A)). Once a contract has expired or been terminated, it is not "an existing contract," and cannot satisfy this requirement. Therefore, we are of the opinion that the Board should discontinue supplying confidential information to the local jurisdiction's consulting firm once the Board learns that the jurisdiction's contract with the consultant has expired or been terminated. The Board cannot wait for the resolution to be rescinded before stopping the disclosure of confidential information to the consultant.

With regard to the City's current resolution, it remains valid as to the release of sales and use tax information directly to the City. Moreover, if the City provides the Board with written notification that it has entered into a new contract with the same consultant which meets the requirements of Section 7056(b)(1), we are of the opinion that the Board can resume providing information under the current resolution. A new resolution, while desirable, is not necessary.

As we discussed by telephone on August 7, 1997, although the City initially wanted the consulting firm to continue examining the Board's confidential taxpayer information relative to the administration of the City's local sales and use taxes, it has since indicated that the information should not be provided until a new contract is in place.

If you have any further questions regarding this matter, feel free to call me at 324-2195.

Ani Lindall

cc: Mr. E. L. Sorensen, Jr.
Mr. John Waraas
Mr. Timothy W. Boyer
Mr. Glenn Bystrom
Mr. Dennis Fox
Ms. Mary C. Armstrong
Mr. Gary Jugum
Mr. Bob Wils