

M e m o r a n d u m**120.1160**

To: Sacramento – Auditing (L. Adams)

Date: May 17, 1982

From: Headquarters – Legal (RHO)

Subject: W--- J. B---
SR -- XX-XXXXXX

Taxpayer provides certain computerized services for automobile service stations. It provides the client with work order forms, mailers and certain other supplies. Client sends a copy of work order on each lube job, etc., to taxpayer weekly. The customer name, address, car mileage, type of work, etc., is taken from work orders and entered into taxpayer's computer. The computer produces and immediate "thank you" card which is sent directly to the client's customer. A "reminder" card is sent to customer in 90 days informing him that it is time for servicing. A second reminder card may be sent in 30 days.

According to information supplied with your request and the letter from Mr. D---, the client receives monthly customer listing printout, alphabetized and in zip code order, showing various data, such as work order breakdown, employee production, etc.

This material also indicates the taxpayer charges the client a one-time fee of \$125 for computer set-up, work orders and supplies. Thereafter clients are charged \$.46 per card mailed (\$.41 for special sales promotion cards), \$.15 per page for the customer listing printout, and a \$10.00 per month management fee, plus shipping charges.

Per your request for advice, we conclude that the taxpayer is processing customer furnished information (Regulation 1502(d)(5)) when it inputs information from client work orders and produces a monthly report from this information showing customers listed in either alphabetic or zip code order, types of services provided, etc. We have previously held that listing by zip code, for example, is regarded as more than "reformatting", as that term is used in Regulation 1502. Moreover, the information provided states that much more tabulated information is provided.

Applying Regulation 1502(d)(5)(A), however, we conclude that the taxpayer is the retailer of the cards it prints and sends to the client's customers and the charge it makes for printing the cards is subject to tax. Since the taxpayer makes a single charge which includes both printing, postage and mailing services, you are entitled to make some segregation of the total charge per Regulation 1504(c)(2).

You state that you intend to treat the taxpayer as a Section 6015 retailer with respect to the charges for some 60 percent of the clients who purchase the services through an independent agent (typically an accounting firm). We conclude that such treatment is within the discretion granted by Section 6015.

You also state that while the taxpayer prints all the cards here and mails them from Sacramento, some agents, some clients, and therefore, some of the client's customers are located in other states. After discussing the question with Mr. Jugum and Mr. Hennessy, it was concluded that the charges for cards mailed to customers at out-of-state addresses are exempt from sales tax under Revenue and Taxation Code Section 6396 (Regulation 1620). Further, we concluded that we could find no basis for applying use tax. Thus, these charges should be excluded from the taxable measure. Please let us know if you feel there is some basis of imposing tax under these circumstances and we will be happy to reconsider the issue.

RHO:jw