

**STATE BOARD OF EQUALIZATION**

May 9, 1951

Mr. E. G. V---
Accounting and Tax Counsellor
P--- Association
XXXX West ---
--- --- X, California

Account No. -- - XXXXXX
A. A. S--- P--- Company

Dear Mr. V---:

After receipt of your letter of April 20 we reviewed the file of the A. A. S--- P--- Company which had filed a petition for redetermination of the determination which we had made under date of March 28.

While the matter may be not entirely free from doubt, we have reached the conclusion that the folders containing stories or verses relating to the dolls with which the folders are enclosed when the dolls are sold may be regarded as a sale for resale by the printer of the folders. Those folders that contain only a list of other dolls available we believe should be considered as consumed by the seller of the dolls as advertising material. The stories and verses appear to be of interest to the purchaser of the dolls who desires to have them for their educational value, and to increase the value of the collection of dolls. Accordingly, we have advised the company that we would recommend to the Board that the sales price of the folders containing the stories or verses be eliminated from the measure of the tax.

You indicate the need of clarification of the last paragraph of Ruling 49 stating that tax applies to sales of such items as advertising matter enclosed with the property sold. We think that if the enclosure is primarily for advertising purposes the tax is applicable. If, however, the enclosure is in the nature of directions, instructions, or information desired or needed by the consumer of the goods, the mere fact that advertising is also contained in the enclosure will not cause the tax to apply. In some instances it may be difficult to determine the primary purpose of inserting the enclosure in the package. In doubtful cases we shall be glad to examine the enclosures as we have in the case of the enclosures with the Hollywood Dolls.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:ph