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March 8, 1993

BURTON W. OLIVER  
Executive Director

Dear Ms. --

This is in reply to your January 18, 1993 letter regarding the application of sales tax to your charges for annual reports.

You described two situations and asked whether you should charge sales tax to your customer on the sale. We understand that, in each situation you would sell 14,000 annual reports and ship them to two separate destinations. You would ship 10,000 to New York and 4,000 to California. We assume the 10,000 shipped to New York would be used outside California. In the first situation, you would print the annual reports in California and ship them from within this state.

California sales tax is imposed upon all retailers at the applicable rate of the gross receipts from the sale of all tangible personal property sold at retail in this state. (Rev. & Tax. Code § 6051.) Whether or not you collect reimbursement from your customer for the sales tax is a matter of contract between you and the customer. (Civ. Code § 1656.1.)

When you print annual reports in California and ship them to the purchaser in this state, your sale is subject to sales tax.

Revenue and Taxation Code section 6396 provides an exemption from sales tax for your sale of tangible personal property which the purchaser requires you to ship, and you do ship, to a point outside this state by your facilities or by delivery to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point. We are enclosing a copy of Sales and Use Tax Regulation 1620, Interstate and Foreign Commerce, for your further information.

When you sell 14,000 annual reports and ship 10,000 to the purchaser in New York in accordance with Regulation 1620, and ship 4,000 to the customer in California, your sale of the 10,000 is exempt from sales tax, and tax applies to your sale of the 4,000.

In the second situation, you would have the annual reports printed outside California and ship them from the out-of-state point. California imposes a use tax on the storage, use, or other consumption in this state of tangible personal property purchased from any retailer for storage, use, or other consumption in this state at the applicable rate of the sales price of the property. (Rev. & Tax. Code § 6201.) As a retailer engaged in business in this state, you are required to collect the use tax from the purchaser and report and pay it to this Board. (Rev. & Tax. Code § 6203.) When you have the annual reports printed outside California and shipped to the purchaser in this state, the use tax applies, and you are required to collect the tax from the purchaser. When you have the annual reports printed outside California and shipped to the purchaser outside California for use outside the state, the use tax does not apply.

Using your example, where you have 14,000 annual reports printed outside this state and have 10,000 shipped to New York and 4,000 shipped to the purchaser in this state, you are required to collect and report and pay use tax on the sales price of the 4,000 annual reports shipped to the purchaser in this state.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

Ronald L. Dick  
Senior Tax Counsel

RLD:sr

bc: San Jose District Administrator