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**STATE BOARD OF EQUALIZATION**

November 29, 1993

This is in reply to your September 8, 1993 letter regarding the application of sales tax to sales of newsletters published by your client, ---.

You sent a copy of each of the newsletters and explained that they are mailed to your client's customers and users of the client's products on a regular basis. You further explained:

--- are monthly publications sent free of charge to --- clients and customers and potential clients --- and --- are quarterly publications, again sent free of charge to clients/customers and potential clients.”

You believe that the publications meet the criteria of Sales and Use Tax Regulation 1590, Newspapers and Periodicals, and the sale of the periodicals to your client is exempt from sales tax. The exemption applicable to the facts you present is Revenue and Taxation Code section 6362.7, which provides:

"6362.7. There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or component part of any newspaper or periodical that is distributed without charge and regularly issued at average intervals not exceeding three months, and any such newspaper or periodical.

“(b) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property which becomes an ingredient or a component part of any periodical regularly issued at average intervals not exceeding three months, and any such periodical, that is sold by subscription and delivered by mail or common carrier.

II (c) For purposes of this section, 'periodical' means any publication that appears at stated intervals at least four times per year, but not more than 60 times per year, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues with respect to continuity of literary

character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series. The term does not include printed sales messages, shopping guides, or other publications of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more one-half of the issues during any 12-month period.”

Based on our review of the four newsletters you sent, we believe that the newsletters generally contain news or information of general interest to the users of you client's products. The product publicity in the newsletters you sent does not exceed 90 percent of the printed area. We assume that is the case with one-half or more of the issues during any twelve-month period.

With that assumption, we believe that the four newsletters qualify as “periodicals” as defined in subdivision (-) of Section 6362.7. The sale of the periodicals --- --- the purpose of distribution without charge is exempt from tax.

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

Very truly yours,

Ronald L. Dick  
Staff Counsel

bc: District Administrator