

M e m o r a n d u m**385.1424**

To: Mr. Dan Tokutomi
Branch Office Supervisor
Marysville Branch Office – KHD

Date: May 11, 1994

From: Ronald L. Dick, Staff Counsel
Legal Division – MIC: 82

Subject:

Your office sent us a letter you received from --- of the --- a copy is attached.

The letter was sent by route slip and noted that --- insisted upon our written response but did not provide us with an address for ---.

From --- letter, we understand that the --- --- --- purchases five publications from --- --- --- in Massachusetts, and the --- sells the publications at retail in California. --- sent for review one copy of each of the five publications and asked whether the retail sale of the publications in California is subject to sales tax.

The publications, as numbered by --- are:

1. --- --- ---. The publication is published quarterly and comprises passages from the Bible which are in the Sunday church sermons, an outline for daily individualized study, and the text of Bible passages for responsive readings.
2. --- --- --- The publication is issued weekly and consist of articles and testimonies of first-hand experiences related to the --- religion.
3. --- --- --- The publication is issued monthly. It is the French version of the --- --- and contains articles and testimonies as well as a directory of churches and --- --- --- appropriate to each language.
4. --- --- --- The publication is issued monthly. It is the official organ of the --- --- ---. It consists of articles and a worldwide directory of churches and --- --- ---.
5. --- --- --- The publication is an international daily newspaper which provides typical news journalism.

After reviewing each of the publications, we believe that Publications 1 through 4 qualify as “periodicals,” and Publication 5 qualifies as a “newspaper”.

As you know, effective July 15, 1991, the general exemption from sales and use tax for the sale and use of newspapers and periodicals was repealed. Various exemptions from sales and use tax for the sale and use of periodicals have been added to the Revenue and Taxation Code since that time. See Revenue and Taxation Code sections 6362.3, 6362.7, and 6362.8. For example, if the --- --- --- is an organization that qualifies for tax exempt status under section 501 (c) (3) of the Internal Revenue Code, its sale of the newspaper or the periodicals is exempt under Revenue and Taxation Code section 6362.8, subdivision (b) (2) if the newspaper or periodical does not receive revenue from, or accept, any commercial advertising.

In order for us to determine whether any of the exemptions apply we will need further facts regarding sales by the --- and whether or not the --- qualifies for tax exempt status under section 501 (c) (3) of the Internal Revenue Code or is otherwise a non-profit organization.

RLD: plh

Attachment