

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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July 18, 1989

Ms. E--- B. J---
XXXX --- #XX
--- ---, California XXXXX

K--- and K---
SR -- XX-XXXXXX

Dear Ms. J---:

I am writing in response to your request for a legal opinion regarding the applicability of sales tax to sales of "San Diego Live." You enclosed three copies of this publication, which can be described as a monthly guide to live theatre in the San Diego area.

Except where sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this state. (Rev. & Tax. Code § 6051.) However, sales of periodicals "regularly issued at average intervals not exceeding three months" are exempt from sales tax. (Rev. & Tax. Code § 6362.) Sales and Use Tax Regulation 1590 (enclosed) defines "periodicals" as

"... those publications which appear at stated intervals, 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 in respect to continuity of literary character or similarity of subject matter, and there must be some connections 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 publications "of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period."

The publication "San Diego Live" qualifies as a tax exempt periodical. It is issued once a month and contains information of general interest to the theatre going public in the San Diego area. The different issues have a continuity of subject matter as monthly theater guides.

Advertising does not exceed 90% of the printed area in the three issues you provided. Assuming that other issues follow the same format with respect to percentage of advertising, sales of this publication are tax exempt

If you have further questions concerning this matter, please feel free to write again.

Sincerely,

Stella Levy
Tax Counsel

SCL:cl

Enclosure

bc: --- --- District Administrator
--- --- District Administrator