



**STATE BOARD OF EQUALIZATION**  
(916) 445-6493

May 31, 1990

Mr. REDACTED TEXT  
Los Angeles, CA 90071-3398

REDACTED TEXT, Inc. –  
SR EH REDACTED TEXT  
Riverside County district transactions tax

Dear Mr. REDACTED TEXT:

In your March 3, 1989 letter to Mr. Gary Jugum, Assistant Chief Counsel, you write:

“Our firm represents REDACTED TEXT, Inc., a direct mail marketing company (the ‘Taxpayer’). On behalf of the Taxpayer, we hereby request written advice under Revenue and Taxation Code Section 6596 regarding the Taxpayer’s obligation to collect transactions and use tax.

“By letter to you dated December 21, 1988, we requested advice regarding the Transit Tax recently adopted in Riverside County (the ‘County’). By reply dated January 25, 1989, John Abbott, tax counsel, responded regarding the collection of the Transit Tax. By this letter, we wish to identify the Taxpayer and to obtain the advice previously rendered with respect to the specific Taxpayer. We also wish to clarify certain facts.

“FACTS

“The Taxpayer’s business involves the direct mail marketing of household and other like products within the state of California as well as in other states. The Taxpayer is ‘Engaged in Business’ within the meaning of Regulation 1827(c) only within the County. The Taxpayer mails several catalogues each year, receives orders from customers and then ships the goods. The order is shipped by the Taxpayer, his agent or by common carrier. The goods are generally shipped directly to the customer, although in some cases, such as when goods are ordered as a gift, the customer may direct that the goods be shipped to someone else. In any case in which the Taxpayer delivers goods outside of the County, it has no knowledge of any intention of the customer to bring the goods into the County for use there.

“OPINION REQUESTED

“1. The Taxpayer is required to collect the transactions and use tax on a sale of goods shipped to a person within the County.

“2. The Taxpayer is not required to collect the transactions and use tax on a sale of goods shipped to a person outside of the County.

I note that my January 25, 1989 letter to you in summary stated that where your client, a direct mail marketing company, shipped the tangible property sold outside of the district in which its only place of business was located, an exemption from the district transactions tax for shipments outside the district applied to those sales, under Regulation 1823(a)(2)(B). But your client would have an obligation to collect the purchaser’s district’s use tax if your client was engaged in business in the district and shipped the property sold to the purchaser in that district, under Regulation 1827.

In response to your first request for an opinion, your client is required to report and pay the district transactions (sales) tax to the Board on its sales of property to purchasers within Riverside County. However, your client is not required to collect the district transactions tax from these customers. Instead, the district transactions tax, just as the state sales tax, is imposed on the seller, not the purchaser, pursuant to Revenue and Taxation Code sections 6051 and 7261(a)(1). Whether the sales tax and the transactions tax are passed on to the customer as tax reimbursement is a matter of contract between the seller and the purchaser. (Civil Code Section 1656.)

In answer to your second request for an opinion, since you state that your client is not engaged in business in any other district within the meaning of Regulation 1824(c), we agree with your view that your client is not required to collect the district use tax imposed by other districts on your client’s sales to purchasers in those districts. Since the use tax is imposed on the purchasers, those purchasers remain liable to the Board for the tax. (Revenue and Taxation Code Sections 6201, 7262).

Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott  
Senior Tax Counsel

JA:jb

bc: Mr. E. L. Sorensen, Jr.