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August 6, 1992

Ms. P--- M---
 D--- Associates
 XX ---
 ---, CA XXXXX

SR – XX-XXXXXX

Dear Ms. M---:

We received a May 21, 1992 letter from the --- County Office of the Assessor-Recorder (Assessor). We understand the issue has not been settled regarding the application of sales and use tax to your charge for installing a computer system and the Recorder's Information Management System (RIMS) for the Assessor.

From the description of the charge in your November 25, 19XX letter, we do not believe that the entire charge is taxable. Generally, the taxable measure of the sales tax or use tax includes the total amount of the sale with no deduction on account of the cost of materials used, labor or service cost, or any other expenses. (Rev. & Tax. Code §§ 6011, subd. (a)(2) and 6012, subd. (a)(2).) On the other hand, tax does not apply to the amount charged for labor or services rendered in installing or applying the property sold. (§§ 6011, subd. (c)(3) and 6012, subd. (c)(3).) Given your breakdown of your charge for installation, we conclude the following as to the specific tasks:

"Installation of some hardware: laser printers and dot matrix printers"

Tax does not apply to the charge for installing the hardware.

"Convert the County's existing data files to RIMS format"

Sales and Use Tax Regulation 1502, Computers, Programs, and Data Processing, provides at subdivision (c)(2):

"Charges for producing, fabricating, processing, printing, imprinting or otherwise physically altering, modifying or treating consumer-furnished tangible personal

property (cards, tapes, disks, etc.), including charges for recording or otherwise incorporating information on or into such tangible personal property, are generally subject to tax."

We believe that the charge for converting the existing files to the RIMS format is subject to tax. See also subdivision (d)(5)(B) of Regulation 1502 which distinguishes a charge for reformatting of data from a nontaxable charge for "processing of customer-furnished information."

"Install and test the leased software on the County's computer, install the County's covered data files onto the County's computer"

The charge for these two installation functions is nontaxable.

"Train the County's staff on using the leased software, some training of the County's staff using Wordperfect software products, teach operation of the computer when using the RIMS product"

Subdivision (e) of Regulation 1502 provides the application of tax to charges for training:

"(1) Charges for training services are nontaxable, except as provided in (g) below where the training services are provided as part of the sale of tangible personal property. The data processing firm is the consumer of tangible personal property which is used in training others, or provided to trainees without a separate charge as a part of the training services.

"(2) Tax applies to charges for training materials, including books, furnished to trainees for a charge separate from the charge for training services.

"(3) Where a person sells tangible personal property, such as computers or programs, and provides training materials to the customer without making an additional charge for the training materials, this is a sale of the training materials. The selling price of the training materials is considered to be included in the sales price of the tangible personal property."

Generally, if the charge for the training services is optional, the charge is nontaxable.

"This fee fee also covers the cost of our staff to travel to the County site to perform some of the above functions."

The charge for travel is taxable or nontaxable depending on the taxability of the underlying charge. For instance, the charge for travel related to nontaxable installation of

hardware is nontaxable. On the other hand, the charge for travel related to the reformatting of data is taxable.

We hope this answers your questions; however, if you need further information, feel free to contact me directly.

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:sr

cc: Mr. J--- E. L---
Assistant Assessor
--- County
P. O. Box C
--- ---, CA XXXXX