

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION (MIC:82)
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November 29, 1993

BURTON W. OLIVER
Executive Director

A--- J---
 Chief Financial Officer
 T--- D--- Corp.
 XX --- ---
 ---, NY XXXXX

Re: Account No. SZ OHB XX-XXXXXX

Dear Ms. J---:

This is in response to your letter to the Legal Division dated October 5, 1993 in which you included a copy of a letter dated February 19, 1993. This division had not previously received your letter of February 19, 1993. In your letter, you request advice as to the application of tax to a "stock quotation information retrieval service." You state that your company does not provide any hard copies of the information but rather the customer retrieves it off a personal computer. You are currently collecting tax on the communication and hardware charges.

As you know, California imposes a sales tax on retail sales of tangible personal property in this state. (Rev. & Tax. Code § 6051). The tax is measured by the gross receipts from the sale including any services provided as a part of the sale. (Rev. & Tax. Code § 6012). Regulation 1502 (copy enclosed) explains the application of tax to computers, programs and data processing.

As stated above, the sales tax is imposed on the sale of tangible personal property. When you transfer computer signals containing the stock quotations by means of remote telecommunication (modem to modem), we regard that transaction as a nontaxable event because no tangible personal property was either transferred or fabricated by you.¹ This assumes that no

¹ For example, in the area of pre-written programs transferred via remote telecommunications, subdivision (f)(1)(D) of Regulation 1502 states:

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tangible personal property is actually transferred to the customer related to the remote telecommunication transfer.

Your letter states that you are currently collecting tax on the communication and hardware charges. These facts indicate that you sell or lease hardware (tangible personal property) in connection with the stock quotation service. I assume that your customers can obtain the stock quotes without purchasing the hardware from you. If such is the case, then the charges for modem to modem stock quotations are not subject to tax.

If my assumption regarding the customer being able to access the service without purchasing the hardware from you is incorrect, please send us a copy of all relevant contracts from which we can determine whether the entire price of the hardware and the stock quotation service is subject to tax. If you have further questions, feel free to write again.

Sincerely,

Ms. Sukhwinder K. Dhanda
Staff Counsel

SKD:plh

Enclosure - Reg. 1502

"The sale or lease of a pre-written program is not a taxable transaction if the program is transferred by remote telecommunications from the seller's place of business, to or through the purchaser's computer and the purchaser does not obtain possession of any tangible personal property, such as storage media, in the transaction."