

**STATE BOARD OF EQUALIZATION**

(916) 445-6493

March 29, 1985

Mr. S--- C. M---
A--- G--- & C---
Certified Public Accountants
P.O. Box XXXX
---, TX XXXXX

Re: Computer software – network bulletin boards

Dear Mr. M---:

In your January 14, 1985 letter to the Board's Chicago office, which was referred to me for reply, you ask for an opinion on whether certain computer software transactions are subject to sales tax.

In summary, you relate that your client, a Los Angeles resident, develops computer software and, by means of telephone lines, loads the software onto a computer network, referred to as a bulletin board. Any computer operator, with the proper equipment, may access this network through telephone lines, and take your client's software for his own use.

Your client includes a message on the network that requests any users of his software to please send him \$10, on the honor system. If and when your client receives \$10 from a user, your client mails the user written documentation on the use of the software.

You point out that your client has not sold any tangible personal property. The item being offered for sale is intangible – computer software. The users provide their own disks to record the software.

Our opinion is that these transactions are neither sales nor purchases within the meaning of Revenue and Taxation Code sections 6006 and 6010, because the transactions do not involve the transfer of any tangible personal property, such as storage media (e.g., tapes or disks) on which the computer program is recorded. Rather, what is transmitted over telephone lines is merely a series of intangible electronic impulses, even though the impulses may constitute a complete prewritten computer program.

No do we consider that your client's later transfer of written documentation will convert an otherwise nontaxable transaction into a taxable one. Since the function of written documentation is simply to facilitate the use of the computer program, we view the transfer of the documentation as incidental to the true object of the transaction, which is to obtain the computer program itself.

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

Very truly yours,

John Abbot
Tax Counsel

JA:ss