



STATE BOARD OF EQUALIZATION
916/445-8900

September 7, 1982

Ms. T--- B---, Credit Analyst
T--- C--- Company
P.O. Box XXXX
---, Virginia XXXXX

Dear Ms. B---:

Re: A--- S--- Inc.
Unlicensed

This is in response to your request for advice on the application of sales or use tax to your California activities. Enclosed for your reference is Regulation 1502 which describes the general rules applicable to data processing services and equipment.

Your letter states:

“Our business in the State of California consists of two services. The first is computer timesharing; which generally takes the form of a customer accessing our computer (located in Virginia) via phone using a typewriter-like device (terminal) located in his office. The customer may use our pre-written programs or write his own. Most activity involves accessing some of our databases, which contain airline financial and traffic statistics, bank statistics and petroleum statistics. The other major service is producing certain tabulations of these same databases. (primarily the bank statistics)

“The participating California banks each supply us with certain operating statistics. We in turn merge all of these statistics and return specified tabulations to the participants. The data is used by the banks to analyze their competitors as well as themselves. Our charging is for the service and no charge is make [sic] for the medium on which the data is presented. (paper)

“Occasionally, we produce programs for customers. These are always produced to run on our system and are not given to the customer to use on his equipment or another service bureau. Generally we produce these programs at no charge in contemplation of receiving revenues when the programs are used on our equipment.”

Based on this description, we conclude that the computer timesharing charges for remote access to your computer in Virginia are not subject to tax (Regulation 1502(j)(2)). Further, no tax liability would arise from producing a program for a customer if it is only used in Virginia and no tangible personal property is transferred to the California customer or if no charge is made for the program.

On the other hand, the tabulations of California bank data are subject to tax. As we understand it, California banks receive a tabulation of operating statistics reflecting information received from all participating California banks. Each tabulation is printed on paper, presumably in computer print-out form. These tabulations constitute tangible personal property which are specifically made taxable by Regulation 1502(c)(1). The tabulations may not be excluded from tax as processing of customer-furnished information under Regulation 1502(d)(5) because the data furnished to a single bank is not limited to the statistics furnished by that bank. Thus, what the bank receives is not just the result of manipulation of its own data but a report covering information on several banks. Under Regulation 1502(c)(1), the transfer of title for a consideration of this printed material is subject to tax.

It should also be noted that sales tax applies to the sale to banks of tangible personal property sold at retail in this state. Banks, other than federally-chartered banks exempt from direct state taxation under federal law, are also required to pay use tax to the same extent and in the same manner as other persons storing, using or otherwise consuming tangible personal property in this state.

Please contact us if you have any further questions.

Very truly yours,

Richard H. Ochsner
Tax Counsel

RHO:ba