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**STATE BOARD OF EQUALIZATION**

April 22, 1969

R--- & B---  
Attorneys and Counselors at Law  
XXX ---  
--- ---, NY XXXXX

B--- R---  
Company Inc.

Attention: Mr. E--- B---

Gentlemen:

Your letters dated March 19 and 25, 1969, addressed to the State of California, State Board of Equalization, have been referred to me.

You state that the B--- R--- Company, Inc. (Company) publishes an annual directory in which selected firms of attorneys are invited to publish a professional card. The B--- R--- is an advertising medium available for use by those attorneys who qualify and are willing to pay the publication charge. The book itself is never sold, but rather, copies thereof are distributed to those who have subscribed for the publishing of their professional cards.

Upon reviewing this matter in November 1968, we concluded that the Company's gross receipts attributable to California sales were taxable since the copies of the directories which were distributed to California firms constituted tangible personal property and since title to the directories was transferred to the firms for a consideration.

In view of the fact that the charges for publication of professional cards are based upon population, you have requested that we reconsider this matter. It is your position that the true object of the contracts between Company and its subscribers is the furnishing of a service (Cal. Tax. Serv. Anno. No. 1808.75), that copies of the directory are not being sold since the publication charges are based upon population, and that firms in cities with populations exceeding 100,000 which \$78 to publish their cards would not pay such an amount solely for copies of the directory.

Upon further review, we have concluded that in contracting to publish professional cards and in publishing its annual directory, Company is both furnishing a service and selling copies of its directory. In paying to have their cards published, we would presume that firms are motivated by the fact that other firms will have their cards available, and thus forward business to them. However, the fact remains that each firm does receive a copy of the directory (tangible personal

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property) and that the directory not only includes a copy of the firm's card as published but also the published cards of all other firms. As a result, each firm is able to use its directory when it needs to locate counsel in other areas.

Thus, we will regard only that portion of California gross receipts attributable to the publication charges which equals the replacement cost of a directory as taxable. If, as we have been advised is the case by Attorney R--- G--- of B---, B--- and M---, the Company has no replacement cost but replaces copies without charge, we will regard only that portion of gross receipts attributable to the cost of printing and binding each directory provided to a California firm as taxable. As we have been advised by Attorney G--- that the application of tax on the above-mentioned basis is acceptable to the Company, we have requested our New York office to determine the Company's tax liability in this manner.

Very truly yours,

J. Kenneth McManigal  
Tax Counsel

JKM:smb

cc: B---, B--- & M---