



STATE BOARD OF EQUALIZATION

June 1, 1983

This is in reply to your April 13, 1983 letter regarding the application of sales tax to the printed material you send to out-of-state addresses.

We understand that --- is an advertising agency which prints letters and mailers and directly mails the letters and mailers to individual addresses. You asked whether tax applies to the charge for the printed material which you mail outside of California.

Section 6396, Revenue and Taxation Code, provides:

"There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of tangible personal property which, pursuant to the contract of sale, is required to be shipped and is shipped to a point outside this state by the retailer by means of: (a) facilities operated by the retailer, or (b) delivery by the retailer to a carrier, customs broker or forwarding agent, whether hired by the purchaser or not, for shipment to such out-of-state point.

For purposes of this section, the term 'carrier' shall mean a person or firm engaged in the business of transporting for compensation tangible personal property owned by other persons, and includes both common and contract carriers. The term 'forwarding agent' shall mean a person or firm engaged in the business of preparing property for shipment or arranging for its shipment"

If your contract with your customer requires you to ship or mail the mailers to addresses outside California and you mail the mailers to the out-of-state addresses, tax does not apply to your charge for such mailers.

You believe that if you contract with an outside printer to print the mailers, tax applies to the charge whether or not you mail the mailers out of state.

You may issue a resale certificate to an outside printer, and your sale to the customer would not be taxable if, pursuant to your contract with the customer, you are required to ship or mail the mailers outside the state and you do so mail the mailers outside the state.

On the other hand, if you have an agency agreement with your customer whereby you purchase the printing as an agent for your customer, tax applies to the printer's charge. The printer would be making a retail sale of the printing in California. This is true whether or not you subsequently mailed the printed material out of state.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

R. L. Dick
Tax Counsel

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