

**M e m o r a n d u m****340.0140**

To: Headquarters – Petition Unit (WEM)

September 1, 1966

From: Tax Counsel (EHS:EDM) - Headquarters

Subject: C--- --- SR -- XX XXXXXX  
dba H--- and A---  
XXX South --- Avenue  
--- ---, CA XXXXX

We have reviewed the above named taxpayer's petition for redetermination of sales and use taxes in light of recently adopted sales and use taxes ruling 7.5. As you may be aware, the ruling was adopted after an extensive study of mailing service businesses. It constitutes an interpretation of existing laws and is to be applied for prior periods.

If our understanding of the facts is correct, we have included in the measure of the tax "markup" charges for the transfer and sale of addressograph plates which were fabricated to the special order of the taxpayer's customer. It has been our view that, in order for continuing maintenance of addressing plates by a mailing house to be regarded as an exempt mailing service under ruling 7.5(d), the taxpayer must furnish substantiating evidence that he retains title to the plates. Such evidence should be embodied in an agreement between the parties. However, affidavits from the customers that their understanding was that title had not passed to them should also be given consideration. Insofar as we understand the facts, it would appear that, since title to the plates passes to the taxpayer's customer, there has been a taxable retail sale within the meaning of § 6006(f). Accordingly, it is our opinion that the foregoing charges for the "sale" of the addressograph plates were properly included in the measure of the tax.

We also understand that the protested measure of tax includes charges for preparing certain materials for mailing. Taxpayer performs such services as the collating of materials, the folding of Christmas cards, as well as the stuffing of those materials into envelopes. The product of this preliminary mailing service is turned over to other mailing houses for mailing. On the basis of paragraph (g) of ruling 7.5, it is our opinion that taxpayer's mailing house is the consumer and not the retailer of any tangible personal property it uses in rendering the aforementioned mailing services. Also, the fact that taxpayer transfers the products of its

preliminary mailing services to another mailing house for ultimate mailing does not prevent such “preliminary preparation of materials” from being an exempt mailing service within the meaning of the new ruling. Accordingly, it is our recommendation that the last mentioned charges relating to folding and collating of materials should be deleted from the total measure of tax.

EDM:ls

cc: --- --- District – District Administrator  
--- – Subdistrict Administrator