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**STATE BOARD OF EQUALIZATION**

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August 5, 1991

Mr. [REDACTED]  
[REDACTED]  
Los Angeles, CA 90024-3902

Dear Mr. [REDACTED]

This is reply to your July 3, 1991 letter regarding the application of sales tax to the transfer of motion pictures by [REDACTED] Corporation ("[REDACTED]"). You provided the following facts regarding the proposed transaction:

"I. PROPOSED TRANSACTION.

[REDACTED] proposes to incorporate a new wholly-owned subsidiary ([REDACTED] sub'). [REDACTED] will thereupon sell to [REDACTED] sub all rights owned by it to one or more specified motion pictures ('Pictures'). The Pictures will have been released prior to the transfer to [REDACTED] sub. [REDACTED] sub will pay cash to [REDACTED] for the Pictures. Simultaneously, [REDACTED] will enter into a distribution agreement with [REDACTED] sub pursuant to which [REDACTED] will license the distribution rights to the Pictures from [REDACTED] sub. There are good business reasons for this transaction, unrelated to sales tax."

Given this information, you asked for a confirmation of your conclusion that sales tax does not apply to the transaction you described.

Given that there are good business reasons for this transaction unrelated to sales tax, we agree with you that sales tax does not apply to the transaction. Specifically, sales and Use Tax Regulation 1529, Motion Pictures, provides at subdivision (b)(1)(C):

(C) Tax does not apply to the transfer of all or part of, or any interest in, a qualified motion picture if either:

1. The transfer is prior to the date that the qualified motion picture is exhibited or broadcast to its general audience, or

2. The transfer is to any person holding either directly or indirectly, or by affiliation, any exploitation rights obtained prior to the date that the qualified motion picture is exhibited or broadcast to its general audience. For example, a transfer to any entity that has control over or is under the control of another entity that held any exploitation rights directly would not be subject to tax. Further, a transfer to an entity which is under common control with another entity which held exploitation rights directly would not be subject to tax....”

We agree with your interpretation that, under paragraph 2. of the quoted subdivision, the transfer by [REDACTED] to its wholly-owned subsidiary, [REDACTED] sub, would be a nontaxable transfer to an entity that is under the control of the entity that held exploitation rights directly.

If you have further questions regarding this, feel free to write directly to me.

Very truly yours,

Ronald L. Dick  
Senior Tax Counsel

RLD:sr