

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-3237

October 30, 1984

H--- R. H---
Corporate Controller
L--- C---, Inc.
P.O. Box XXXX
--- ---, CA XXXXX

Re: L--- C---, Inc. – SR --- XX-XXXXXX
“This Week” newspaper – cover photographs

Dear Mr. H---:

In your letter to me dated September 17, 1984, you relate that L--- publishes a weekly newspaper, “This Week.” Although there are eight different editions of the newspaper distributed in different geographic areas of Napa and Solano Counties, it is regarded as a single publication for sales and use tax purposes.

You relate in summary the Mr. Bob Roos of the Board’s Pleasant Hill field office has tested the publication as issued on certain sample dates to determine whether it meets the definition of an exempt newspaper under Regulation 1590. You state that Mr. Roos considered the full-page photograph on the front page of the newspaper as advertising; if it were so regarded, then the “information” portion of the newspaper would be less than 10% of the printed area in more than half the issues tested, and the newspaper would not meet that requirement of Regulation 1590.

On the other hand, you contend the front page photograph should be regarded as exempt, because the photographs which you select for publication are not intended to advertise any particular business or product. Rather, the photographs you select are of scenes in and around the newspaper’s distribution area, and are of general interest to your readers. If the front page is regarded as exempt, then the information portion of the tested issues would exceed 10% and the newspaper would be exempt under Regulation 1590.

We assume that what you mean by your contention that the front page photograph is exempt, is that it should be counted as news or information of general interest to the public. We do not agree. We view the “news or information” requirement as qualified by the phrase in Regulation 1590 that “there must be some connection between the different issues of the series in the nature of the articles

appearing in them.” (Emphasis added). A photograph by itself does not constitute an article, and therefore does not qualify as news or information of general interest.

On the other hand, these photographs also do not count as advertising, since they only illustrate scenes in and around the newspaper’s general distribution area, and do not advertise a particular business or product. These photographs nevertheless do comprise part of the printed area of the entire issue.

In this situation, Regulation 1590 in effect imposes a two-part test. First, does the newspaper contain news or information of general interest to the public in the form of articles in the different issues? Second, if so, does the advertising portion of the newspaper constitute 90% or less of the printed area in more than half the issues in a 12-month period?

The August 1, 1984 issue (Fairfield South/Suisun edition) you enclosed contains several articles of general interest in the Food/Lifestyle section. Although these articles do not appear to comprise 10% of the newspaper’s printed area, that is not the second part of the test; rather, the newspaper will meet the second part of the test if its advertising portion typically does not exceed 90% of the printed area (including the front page photograph).

We are not in a position to determine whether or not “This Week” is in fact an exempt newspaper. Rather, we will defer to our Pleasant Hill audit staff to make the calculations necessary, or review the calculations already made, to determine whether or not this newspaper meets the tests described above.

I enclose a copy of Regulation 1590 for your information. Please feel free to contact me if you have any further questions or comments about this letter.

Very truly yours,

John Abbott
Tax Counsel

JA:ss

Enclosure

cc: Bob Roos – Pleasant Hill office

bc: Oakland – District Administrator
Donald Hennessy