



STATE BOARD OF EQUALIZATION

(916) 445-2488

March 7, 1978

Dear Mr. ---

This is in response to your letter of February 6, 1978 to Mr. T. P. Putnam which has been referred to the undersigned for reply.

As we understand it, you publish a book entitled "Professional Responsibility Manual", which you sell for \$27.50, and on which you report sales tax. You also provide an optional updating service for purchasers of the book. The updating service consists of a quarterly newsletter, entitled "Professional Responsibility Update" and annual revisions to the manual. The cost of both of these services is \$20.00 per annum.

You wish to know whether tax applies to the sale of the quarterly newsletter and the annual revisions.

Revenue and Taxation Code Section 6362 provides that:

"(a) there are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state of tangible personal property which becomes an ingredient or component part of any newspaper or periodical regularly issued at average intervals not exceeding three months and any such newspaper or periodical." (Emphasis added.)

Sales and Use Tax Regulation 1590 (a) (2) (copy enclosed) defines "periodical" as "limited to those publications which appear at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Each issue must bear a relationship to prior or subsequent issues in respect to continuity of literary character or similarity of subject matter, and there must be some connection between the different issues of the series in the nature of the articles appearing in them. Each issue must be sufficiently similar in style and format to make it evident that it is one of a series. Effective April 1, 1975, an annual report of a corporation which is substantially similar different in style and format from the corporation's quarterly reports is not part of a series with the quarterly reports."

It is our opinion that your newsletter, "Professional Responsibility Update" qualifies as an exempt "periodical" as defined in Regulation 1590 as it is issued quarterly and we assume contains news or information of interest to subscribers of the "Professional Responsibility Manual". The annual revision to the manual, however, cannot be classified as a "periodical" as it is only issued once each year and is, we assume, substantially different in style and format from the quarterly "Update".

You state that a single charge of \$20.00 per year is made for the "Update" and annual revision. If the exempt and non-exempt items are priced separately, tax would only apply to the price of the non-exempt item. In the present case, however, in order to determine an amount upon which to base the measure of tax as between the exempt item, the "Update", and the non-exempt item, it is necessary to allocate the cost of the two items. An allocation of the cost of the two items may properly be based on the replacement cost of the revision.

If you have further questions concerning this matter, please write this office

Very truly yours,

Mary C. Armstrong
Legal Counsel

MCA: jw
Enclosed