



STATE BOARD OF EQUALIZATION

August 12, 1965

Gentlemen:

This is in regard to our conversation of August 3, 1965 regarding the question of whether your publication, Surprise Package, will qualify as an exempt periodical under Section 6362 of the California Revenue and Taxation Code and sales tax Ruling 50.

Surprise Package will consist of an envelope containing a foldout "showcase" sheet. On the showcase will be printed "congratulations" and six reproductions of water color paintings of babies. Within the folded showcase will be a congratulatory record containing lullabies and a folded inner sheet containing zodiacal information relative to the current month, editorial matter pertaining to babies, and free merchandise coupons issued by manufacturers of baby products.

It is our understanding from the printed matter which you submitted that the primary purpose of Surprise Package is to promote the sale of the products of the manufacturers whose product coupons are contained in the inner sheet. It is further our understanding that your firm has access to national birth records and plans to send out 270,000 Surprise Packages each month to couples who have had babies born to them during the current month.

Each month the Surprise Package will contain different zodiacal information, e.g., in September the inner sheet will indicate that the flower of the month is the morning glory, the birthstone of the month is the sapphire, and the zodiacal sign for the period of August 24 to September 23 is Virgo.

As we indicated to you, Surprise Package will be a unique publication and our determination of whether or not it qualifies as a periodical under Section 6362 and Ruling 50 will necessarily be determined by analysis of legal and administrative precedents.

Although a different Surprise Package will be sent out each month we do not believe this factor is determinative of the question of whether Surprise Package qualifies as a periodical issued at average intervals of three months or less. We have regarded as periodicals publications containing information of general interest which are printed and distributed to people on a regular basis. It appears to us that, since each month's Surprise Package will be distributed to couples which have had babies during that month, it will normally only be distributed to a couple

once during the year. Accordingly, as to the recipient, it will be regarded as in the nature of a greeting card rather than a periodical.

In view of the foregoing considerations, we do not believe that Surprise Package can properly be characterized as a periodical within the meaning of Section 6362 and Ruling 50. Accordingly, we regret to inform you that Surprise Package does not qualify for exemption from sales tax as a periodical.

Very truly yours,

George A. Trigueros
Associate Tax Counsel

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