



390.0060

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

January 22, 1965

Gentlemen:

You will recall that last April you discussed with Mr. Harry L. Say, former Assistant Executive Secretary, Business Taxes, and the undersigned, a pending audit of "X" and "Y". We discussed the application of use tax in general, but were unable to reach any definite conclusions because the audit had not been completed and reviewed in this office.

Last month the audit was transmitted and proposes a determination based on the purchase price of new film and tape shipped to California television stations. It appears that the tax is legally applicable. It has been contended that "X" is exempted because it is a nonprofit educational organization. This fact, however, does not afford basis for exemption from use tax which the courts have held to apply to purchases by such organizations on the basis that the use tax is not a property tax and, accordingly, is not subject to the limitations in the California Constitution applicable to property taxes as respects such nonprofit educational organizations. Therefore, we propose to issue a notice of determination to "X".

This is merely the first procedural step in establishing a liability. If it objects, "X" may file a petition for redetermination within 30 days from the date of the notice of determination, and may request a hearing before a hearing officer, and before the Board should any dispute not be resolved at the staff level.

Very truly yours,

E. H. Stetson
Tax Counsel

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