



390.0070

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

916-445-2641

January 4, 1977

REDACTED TEXT

Attorney at Law

Dear Mr. REDACTED TEXT:

This is in response to your letter of December 17, 1976. You have raised a question with respect to the status of the REDACTED TEXT ("the League") a California nonprofit corporation, under Revenue and Taxation Code Section 6361.

We understand that the specific and primary purpose of the League is to supervise and teach tackle football for boys. As evidenced by a letter dated June 22, 1976, directed to Mr. and Mrs. REDACTED TEXT, the League excludes girls from participation in its tackle football program.

As you point out, Revenue and Taxation Code Section 6361 provides that certain nonprofit organizations whose primary purpose is to implant in the youth of the community the ideals of good sportsmanship, honesty, and courage are, for purposes of the Sales and Use Tax Law, consumers of food products and nonalcoholic beverages which they sell for the purpose of raising money and in furtherance of such purpose.

This special status as "statutory consumer" is available only to organizations which do not discriminate on the basis of race, sex, nationality, or religion.

The question at issue is one of statutory interpretation only. We are of the opinion that the League fails to meet the qualifications of Revenue and Taxation Code Section 6361 in that it excludes a class of youth from its program based upon sex. Accordingly, sales by the organization of tangible personal property are retail sales subject to the tax in accordance with the rules of general applicability. It is immaterial that the position taken by the League in excluding girls from the tackle football program may be permissible under equal protection and due process standards of the United States or California Constitutions.

As indicated, we view the question as one of statutory interpretation. The language of Section 6361 is reasonably clear, and there is no indication that this section was intended as an enforcement mechanism for constitutional or other civil rights provisions.

We have furnished a copy of this letter to our Santa Barbara district in order that that office may complete the registration of the League should such registration be otherwise required.

Very truly yours,

Gary J. Jugum
Tax Counsel

J:alicetilton

cc: REDACTED TEXT

bc: Santa Barbara – District Administrator