



390.0095

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

916-445-3237

April 4, 1979

REDACTED TEXT

Dear Mr. REDACTED TEXT

Your letter of February 9, 1979 to Mr. Thomas P. Putman, Assistant Chief Counsel, has been referred to the undersigned for reply. You have requested our interpretation of Revenue and Taxation Code Section 6365 as it applies to the above referenced client. Specifically you wish to know whether the admissions policy of the REDACTED TEXT ("Museum") will satisfy the requirements of Section 6365 (d) (3).

As we understand it,

"The Museum is a California non-profit corporation incorporated in 1924 under the name of REDACTED TEXT. During its long history, the corporation has had several names, including REDACTED TEXT and currently REDACTED TEXT. The Museum is exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 as amended ("IRC") and has been classified as a publicly supported charitable organization under IRC Section 170 (b) (1) (A) (vi). The Museum also has been determined to be exempt from California income tax under Section 23701d of the California Revenue and Taxation Code ("RTC"). The Museum operates a public museum at REDACTED TEXT. The present museum building was constructed in 1969 on land leased on a long-term basis at a nominal rental from REDACTED TEXT. The Museum exhibits to the public both its own collection of art works and art works which are loaned to it.

"The present admission policy of the Museum is as follows. The Museum is open to the public each week of the year for four days, Thursday through Sunday. The admission hours on these days are from noon to 6:00 p.m. Admission charges are as follows: Adults - \$2.00; Senior Citizens and Students - \$.75; Children under 12 are admitted free when accompanied by a responsible adult. Each paid admission (whether \$2.00 or \$.75) is entitled to a free reproduction (exhibit attached). In addition, there are several classes of memberships available which entitle members to free admission as well as other benefits. Guided tours are

available for groups of 20-200 at times when the Museum is not open to the general public at an approximate price schedule of \$3.00 per person.

"The museum is developing a program which would bring students to the Museum in groups at prearranged times and give them free admission and an educational guided tour of the Museum, along with a free reproduction from art on exhibition. The program would give priority to secondary school students in public schools. Because of the necessity to arrange transportation, tour guides and release from regularly scheduled classwork for the students, this program would require that the activities be scheduled well in advance. The Museum is proposing to set aside one morning (probably Friday) each week of the school year for this program. Although it is anticipated that the program will initially involve the REDACTED TEXT School District, the museum expects to expand the program to include other school districts which may be interested. It is anticipated that approximately 150 children could be accommodated for each visit. Tour guides for the school children's tours would be graduate art history students who are trained at the museum and hired by the Museum to conduct the tours."

You state that you feel "that the Museum meets all of the applicable requirements of RTC Sections 6365(a) through (c). The question remaining to be answered is the manner in which the Museum satisfies the requirements of Section 6365(d)."

Specifically you wish to know whether the Museum's policy of admitting children under 12 free when accompanied by a responsible adult together with its proposed program providing free admission and tours to school children one day each week of the school year satisfy the requirement of RTC Section 6365(d)(3) that the Museum be "open to a segment of the student or adult population without charge"?

You feel that the "foregoing admissions policy clearly satisfies the literal requirements of Section 6365(d)(3) in that it undeniably opens the Museum to a segment of the student population without charge. You state that you do not, however, rely on a strictly literal interpretation of the section. While the term "a segment" could be defined quite narrowly, the Museum has not done so. The policy of admitting children under 12 in effect provides free admission for nearly all elementary school students. The requirement that such children be accompanied by a responsible adult is not a significant practical constraint, since most children of that age would require transportation to and from the Museum by an adult in any event. Moreover, children of that age require some supervision in the Museum to avoid possible damage to the Museum facilities and art on display and disturbance of other Museum patrons.

In summary, you feel that the Museum's practice of admitting children under 12 free of charge when accompanied by an adult and admitting secondary school children free of charge when they are part of your special tour program qualified under Section 6365(d)(3) as a "museum which is open to a segment of the student or adult population without charge."

Revenue and Taxation Code Section 6365(d)(3) provides as follows:

"(d) For purposes of this section, a 'museum' shall only include:

"(3) A museum which is open to a segment of the student or adult population without charge... "

We are of the opinion that the museum's practice of admitting secondary school students free of charge one morning a week as part of a planned school program qualifies within the meaning of the term "a museum which is open to a segment of the student... population without charge ... " The "segment" in this case would be all secondary school age children in the REDACTED TEXT School District. The fact that the museum also allows free admission to children under 12 when they are accompanied by an adult would not in our opinion qualify as being open to a segment of the student population without charge. The fact that the free admission for children under 12 is conditioned on a paid admission results in it not being truly a free admission as Section 6365 (d)(3) requires.

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

Very truly yours,

Mary C. Armstrong
Legal Counsel

MCA:ba

bc: Audit Evaluation & Planning Unit
 Pasadena - District Administrator