



STATE BOARD OF EQUALIZATION

(916) 445-8485

December 21, 1987

REDACTED TEXT

Dear REDACTED TEXT:

Your inquiry on behalf of the REDACTED TEXT organization has been referred to the undersigned for reply.

As I understand the facts, Mayor Tom Bradley, on behalf of the Los Angeles City Library, authorized commencement of the REDACTED TEXT campaign to raise revenue in order to replace approximately 20 percent of the Central Library's materials which were burned or damaged beyond repair in the April, 1986, fire. You requested our opinion as to the application of the Sales and Use Tax Law to sales of tangible personal property by REDACTED TEXT.

At our request, you have submitted the purpose and objectives of REDACTED TEXT and they list as follows:

The purpose of the REDACTED TEXT campaign is to raise \$10,000,000 in gifts and pledges from the private sector for the replacement of those books, periodicals, documents, and specialized collections destroyed in the April 29 fire in the Central Los Angeles Public Library fire. An additional \$4,000,000 "in kind" gifts is expected to be forthcoming during the campaign.

All funds raised will be given to the Los Angeles Public Library Commission for its use in the purchase of new volumes, and/or the acquisition of duplicate materials lost in the fire.

No funds given are to be used for the repair, restoration or rehabilitation of the Los Angeles Central Library building.

As part of its effort to raise \$10,000,000, REDACTED TEXT sells T-shirts, pins, tote bags, posters [illegible], cookbooks, and other gift items. In addition, REDACTED TEXT also seeks donations.

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this State (Rev. & Tax. Code § 6051).

Revenue and Taxation Code section 6370 states, in pertinent part, that “nonprofit associations commonly called the Friends of the Library and equivalent organizations...[are] consumer[s] of and shall not be considered retailer[s] within the provisions of this part with respect to, tangible personal property which [they] sell ...” Sales and Use Tax Regulation 1500(c)(3), which interprets and applies the Code, provides that “when it is stated that certain persons are ‘consumers’ of tangible personal property ...it should be understood that the sales to such persons are retail sales in respect to which ... the sales tax ... applies....”

Thus, if an organization is deemed the consumer of tangible personal property, then sales tax is applicable to the sales price paid by that organization in obtaining the tangible personal property. If that organization subsequently sells that same tangible personal property, no sales tax will be applied to that sale. Conversely, if the organization is the retailer of tangible personal property, then sales tax is applicable based on the gross receipts received by that organization from its sales.

In order to determine whether a particular organization is equivalent to “Friends of the Library” and provides the same type of service to library districts, municipal libraries, or county libraries in this State, it is helpful to compare the objectives and services offered by that organization to the objectives and services offered by “Friends of the Library”. Following is a list of purposes of and services provided by a typical “friends of the Library” organization:

- (a) To encourage public support for library goals and objectives;
- (b) To intensify community awareness and use of our public libraries;
- (c) To sponsor programs designed to add to the cultural and educational life of the community through the Public Library System;
- (d) To encourage donations suitable for attaining the goals and objectives of the library district, municipal library, or county library.

In addition, an organizational unit of “Friends of the Library” may also sell T-shirts, buttons, mugs and books amongst other merchandise and seek donations to raise revenue.

While REDACTED TEXT does not have identical objectives of, or perform precisely the same services as, a “Friends of the Library” organization, we believe its objectives and services are close enough to qualify REDACTED TEXT as an “equivalent organization” within the purview of section 6370(a)(2).

Because REDACTED TEXT is an equivalent organization to "Friends of the Library", REDACTED TEXT is a consumer of tangible personal property which it sells. Thus, the gross receipts from the sale of merchandise by REDACTED TEXT is not subject to tax pursuant to section 6051.

If you have any further questions, please feel free to write again.

Very truly yours,

E. L. Sorensen, Jr.
Senior Tax Counsel

ELS:md