



STATE BOARD OF EQUALIZATION

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May 24, 1995

BURTON W. OLIVER
Executive Director

Mr. M--- A. B---
Office Manager/Conference Associate
N--- A--- of S--- &
C--- Corps
XXX --- Street, NW, Suite XXX
---, DC XXXXX

Dear Mr. B---:

This is in response to your letter dated March 15, 1995 regarding the application of tax to the activities of a nonprofit organization.

You state that the N--- A--- of S--- and C-- Corps (N---) is a national membership organization whose mission is to strengthen the quality of existing youth corps programs and to promote the development of new corps. You explain that N--- sponsors an annual conference for youth corps staff and corpsmembers, and that the purpose of the conference is to provide education and technical assistance to staff members, and to provide education to the young people employed in the corps programs. You state:

"The N--- A--- of S--- and C--- Corps is a 501(c)(3), as determined by the Internal Revenue Service. We are also tax exempt in the state of Maryland and in the District of Columbia as well. At our last conference in Cleveland, Ohio, I requested and received an exemption from the Ohio Sales and Use Tax for the duration of the conference."

You explain that your next conference will be held in Long Beach, California, and you state:

"I am writing to request an exemption from the California Sales and Use Tax for the period of our conference, July 29 through August 1."

DISCUSSION

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless specifically exempt by statute. (Rev. & Tax. Code § 6051.) A retail sale is a sale for any purpose other than resale in the regular course of business. (Rev. & Tax. Code § 6007.) When sales tax does not apply, such as when sales take place outside of California, the use tax, measured by the sales price of the property sold, applies to the use of property purchased from a retailer for storage, use, or other consumption in California. (Rev. & Tax. Code §§ 6201, 6401, Reg. 1620.)

Although many nonprofit organizations have tax exempt status for federal and state income tax purposes, California law does not provide a general, blanket exemption from tax for sales and use tax purposes. This means that a retail sale of tangible personal property to or by such an organization will be subject to tax measured by the full selling price unless specifically exempt by statute.

It is not clear whether you are asking for an exemption from tax on sales of tangible personal property to N---, or whether you are asking for an exemption with respect to sales of tangible personal property made by N---. You have not indicated any facts that would exempt retail sales to or by your organization from California's sales or use tax. If N--- makes retail sales of tangible personal property inside California, it will owe sales tax. However, any property N--- purchases that it resells without prior use may be purchased extax for resale. (See Reg. 1668, a copy of which is enclosed.) Sales or use tax will apply with respect to any property it purchases in California, or purchases for use in California.

I note that persons who transfer tangible personal property incidental to the performance of a service are consumers of that tangible personal property. (Reg. 1501). Based on the information you have provided, it appears that persons contract with N--- to have it provide educational services such as the workshops on staff development and technical assistance training. If such is the case, N--- will generally be regarded as providing a service, and any tangible personal property it furnishes such as the "how-to" training manuals will be considered incidental to the educational services provided. (See Business Taxes Law Guide Annotation 515.0015 (3/31/80).) N--- would not be regarded as selling tangible personal property when performing such services, and sales tax would not apply to its charges. Sales or use tax would apply, however, with respect to N---'s purchase of such property.

Mr. M--- A. B---

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I have enclosed, for your information, a copy of Sales and Use Tax Pamphlet number 18, entitled "Tax Tips for Nonprofit Organizations." If you have further questions, please feel free to write again.

Sincerely,

Kelly W. Ching
Staff Counsel

KWC:plh

Enclosures - Regulation 1668
 - Pamphlet No. 18