



STATE BOARD OF EQUALIZATION

(916) 445-6450

August 27, 1985

REDACTED TEXT

Re: REDACTED TEXT

Dear Mr. REDACTED TEXT:

This is in reply to your July 2, 1985 letter regarding the application of sales and use tax to sales of books by REDACTED TEXT, through parent-teacher association (PTA) sponsored book fairs.

You sent a copy each of a March 20, 1984 preliminary hearing report by Hearing Officer H. L. Cohen of the board's legal staff, a May 30, 1985 letter by Senior Tax Representative, Lucian Khan of the board's Out-of-State District Office, and a June 12, 1985 letter by Mr. Khan. You believe that the hearing report and letters seem to indicate a split of authority as to the application of tax to sales of books through the PTA sponsored book fairs. You believe that, under Section 6370, Revenue and Taxation Code, the PTAs are the consumers of the books sold at the book fairs.

We disagree that the letters indicate a split of authority between the members of the staff. Mr. Cohen responded to specific facts presented to him at a preliminary hearing to conclude that PTAs are agents of REDACTED TEXT and that REDACTED TEXT makes sales of books directly to the students; therefore, sales tax applies to the gross receipts of REDACTED TEXT sales in California. Mr. Kahn was not aware of such facts when he wrote the May 30, 1985 letter. Mr. Khan's letter of June 12, 1985, expressed the same opinion as the hearing officer; that is, where PTAs are merely agents of REDACTED TEXT, tax is due on the retail price of the books that REDACTED TEXT sells to the students.

We agree that, under Section 6370, PTAs are consumers of tangible personal property which they sell when the profits are used exclusively in furtherance of the purposes of the PTAs organizations. However, under the facts presented to Mr. Cohen, the PTAs do not sell the books at REDACTED TEXT book fairs. The PTAs are merely agents for REDACTED TEXT, and it is REDACTED TEXT which sells the books to the students. In such case, the students are the consumers of the books.

You also asked that we review Mr. Khan's evaluation of REDACTED TEXT form, "Book Fair Remittance Worksheet" (worksheet). The worksheet provides that a PTA may take its

commission payment from REDACTED TEXT either by deducting 30% cash from the PTA's payment to REDACTED TEXT or by taking books with a value that would amount to a 40% commission.

Using the figures given in the example on the worksheet, Mr. Khan concluded, and we agree, that where REDACTED TEXT transfers books that have a purported value of \$620.19 to a PTA in exchange for the PTA's cash commission of \$465.74, REDACTED TEXT makes a sale of the books to the PTA for a consideration of \$465.74.

We hope this answers your questions; however, if you need further information, feel free to write again.

Sincerely,

R. L. Dick
Tax Counsel

RLD:hb