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**STATE BOARD OF EQUALIZATION**

916-445-3237

April 28, 1982

This is in response to your letter of March 3, 1982. you have requested an opinion regarding the correct application of tax to your company's sales.

As we understand it, you will be operating as a tour agent. You will rent a bus on a weekly basis from X----- in San Francisco and will take a group of people to three wineries in Napa County. Each tour group will stop at the X----- in X----- for lunch.

The charge per person for the tour will be \$40 which will include the transportation, luncheon and anything else that may be done during the day (i.e., breakfast danish while on the bus). You will pay in advance the monies due the bus company and the restaurant.

We are of the opinion that the activities which you describe will not require you to hold a seller's permit and report and pay tax to the State Board of Equalization.

Our opinion is based on the fact that under the situation you describe you are making no sales of tangible personal property which are subject to sales and use tax to your tour group patrons.

We not however, that if you were to begin selling items of tangible personal property which are subject to tax to your tour groups you would be required to hold a seller's permit. For example, if you were to furnish picnic meals to the group instead of taking the group to the X-----.

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

Very truly yours,

Mary C. Armstrong  
Staff Counsel

MCA:ba

## **Levine, David**

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**From:** Levine, David  
**To:** Anderson, Vic; Khabbaz, Leila  
**Subject:** 410.0220 (4/28/82)  
**Date:** Friday, April 17, 1998 5:27PM

This annotation is incorrect. Tour operators who purchase food service from restaurants to provide to their customers are buying for resale because they have contracted to provide their customers the meals. They must have permits, and report tax On those sales. Please delete ..

The backup to this is the same as to 550.0349. It was published recently (Le., during the project). It is wrong for the same reason as indicated in my email regarding 550.0349. It's recent, so I doubt it's been relied on. I know I've written recently to the direct opposite conclusion in response to a tour operator (actually, it may have been a hotel who was running a tour) who asked about buying for resale, and I confirmed they could and should. There is no basis whatsoever for treating tour operators differently. I can't believe that we have done so, administratively, and in Legal we have reached the contrary conclusion at least during this decade. This annotation should be deleted.