



**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001  
TELEPHONE (916) 920 - 7445

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February 18, 1994

BURTON W. OLIVER  
*Executive Director*

X-----

Dear X-----,

This is in reply to your December 17, 1993 letter regarding the application of sales tax to your charges for artwork.

You noted that X----- designs an advertisement for X----- according to X----- instructions. X----- delivers the advertisement by mail to the advertiser and charges X----- for the advertisement. X----- may also deliver a proof to X-----. Given this information, you asked whether X----- sales of advertisements to X----- qualify for exemption from sales tax under Sales and Use Tax Regulation 1541.5, Printed Sales Messages.

No, it is our opinion that the provisions of Regulation 1541.5 do not apply to the transaction you described. Subdivision (a) (1) of Regulation 1541.5 defines printed sales messages to mean and be limited to catalogs, letters, circulars, brochures, and pamphlets printed for the principal purpose of advertising or promoting goods or services. A directory is a "printed sales message" as defined in the Regulation so long as it meets the principal purpose of advertising or promoting sale of goods or services. Regulation 1541.5 is the State Board of Equalization's interpretation of Revenue and Taxation Code section 6379.5r which provides:

“Printed sales messages for goods and services printed to the special order of the purchaser. There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed sales messages for goods and services printed to the special order of the purchaser and mailed or delivered by the seller, the seller's agent, or a mailing house, acting as the agent for the purchaser, through the United States Postal Service or by common carrier to any other person at no cost to that person who becomes the owner thereof.”

As you noted, the directory is, in fact, an item of tangible personal property. However, the legislature provided for an exemption for the sale of such directories when they meet the criteria of Section 6379.5. Since Section 6379.5 is a tax exemption statute, the State Board of Equalization is required to strictly construe the exemption and may not enlarge it or extend it

beyond the plain meaning of the language of the exemption. (McConville v. State Board of Equalization (1978) 85 Cal.App.3d 156.)

Your sale of the advertising layouts to X----- does not qualify for the exemption. The layouts are not catalogs, letters, circulars, brochures, or pamphlets printed for the principal purpose of advertising or promoting goods or services.

We are unable to locate a record of a seller's permit issued in the name of X----- --. If you have not done so, you should contact your local State Board of Equalization office and obtain a seller's permit.

If you have any further question regarding this, feel free to write again.

Sincerely,

Ronald L. Dick  
Staff Counsel

RLD:plh

Bc: Oakland District Administrator – CH