



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-6450

February 7, 1992

REDACTED TEXT

Re: REDACTED TEXT

Dear Mr. Martin:

This is in reply to the January 28, 1992 letter you sent by telecopy regarding the application of sales tax to charges in connection with the publication of the REDACTED TEXT Guide (Guide).

You provided the following facts:

“REDACTED TEXT Publishing does not furnish or agree to furnish copies of the Guide to advertisers.

“As I explained to you on the phone, REDACTED TEXT Publishing contracts with an outside party to print the Guide. After printing, the Guide is shipped by common carrier to REDACTED TEXT warehouse. REDACTED TEXT then ships the Guide to the Convention Center for distribution to event participants. REDACTED TEXT Delivery Service distributes the Guide to event participants. Additionally, REDACTED TEXT Delivery Service or UPS will pick up copies of the Guide from the REDACTED TEXT warehouse and deliver them to various motels and hotels in the REDACTED TEXT area.”

As we discussed, one issue which was raised by the facts you presented is which of the parties to the transaction would be the retailer. Under the facts described in Business Taxes Law Guide Annotation 495.0060, the Board's legal staff took the position that a printer which published informational booklets on behalf of an association was the retailer. In that case, the association authorized the printer to receive payment for the publication of the books directly from the association members who placed advertisements in the booklets. The arrangement obviated the necessity of the association's soliciting its members for the placement of ads in the booklets, collecting payment from the members, and paying the printer out of the proceeds. We regarded the printer as selling the booklets to the association, and the amounts paid by the

member-advertisers were taxable gross receipts from the sale of the booklets paid on behalf of the association.

After reviewing REDACTED TEXT's contract with the REDACTED TEXT Convention Center, we conclude that the transaction is not a sale of the Guide by REDACTED TEXT Publishing to the Convention Center. Rather, REDACTED TEXT Publishing is the publisher and consumer of the Guides it publishes. REDACTED TEXT Publishing publishes the Guides on its own behalf, and does not appear to be responsible for providing any Guides to the Convention Center or to any other persons on behalf of the Convention Center.

You raised the issue of whether or not tax would apply to the sale of advertising space. No, the sale of advertising space in the booklet does not constitute a sale of tangible personal property subject to sales tax. (Bus. Tax. Law Guide Annot. 540.0020.)

The retail sale of the Guides is the printer's sale to REDACTED TEXT Publishing. You note, "After printing, the Guide is shipped by common carrier to REDACTED TEXT warehouse." We assume that the printer ships the Guides directly to REDACTED TEXT, and none of the Guides are delivered by REDACTED TEXT Publishing. We also understand that REDACTED TEXT Delivery Service is a separate person from REDACTED TEXT Publishing. In such case, we believe that the sale of the printing to REDACTED TEXT Publishing is exempt from sales tax pursuant to Revenue and Taxation Code section 6379.5. That is, in accordance with Sales and Use Tax Regulation 1541.5, Printed Sales Messages, the printed sales messages are:

- (1) Printed to the special order of the purchaser;
- (2) 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;
- (3) Received by any other person at no cost to that person who become the owner of the printed materials.

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

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD:sr