



STATE BOARD OF EQUALIZATION

June 13, 1988

Ms. B--- M---
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---, CA XXXXX

Dear Ms. M---n:

Your letter dated February 18, 1988 to Mr. Gerald Jung of the Oakland district office has been referred to the undersigned for reply. You have requested an opinion as to whether the sale by a California printer to the A--- Chamber of Commerce of the 1987-1988 F--- and M---, N--- & B--- telephone directory is exempt from tax as printed sales messages pursuant to Revenue and Taxation Code section 6379.5 and Sales and Use Tax Regulation 1541.5. You state the directory will be delivered by common carrier or a non-profit organization free of charge to those receiving it.

Except where the sales are specifically exempted by statute, sale tax applies to the gross receipts of retailers from all retail sales of tangible personal property in this State (Rev. & Tax. Code § 6051). Section 6379.5 of the Revenue and Taxation Code provides an exemption from tax for the sales, 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. To qualify for the exemption, the printed sales messages must be:

- (1) Printed to the special order of the purchaser for the principal purpose of advertising or promoting goods or services.
- (2) Mailed or delivered by the seller of the printed material, the seller's agent or by a mailing house acting as the agent of the purchaser through the United States Postal Service or by common carrier.
- (3) Received by any person, other than the purchaser or purchaser's agent, at no cost to that person who becomes the owner of the printed material.

You indicated that the directory has both "white" and "yellow" pages bound in the same volume. Generally speaking, our experience has been that the term "white pages" means and includes those which alphabetically list names, addresses and phone numbers in a single line. On the other hand, "yellow pages" generally mean those which contain blocks of advertising. Our interpretation has led us to conclude that "white pages" are not printed sales messages while "yellow pages" are printed sales messages. In addition, your directory also features center ad color pages and coupon pages. It is our opinion that the center ad color pages and coupon pages are printed sales messages.

You stated in your letter the possibility that a non-profit organization may distribute the directories. As noted above, either the United States Postal Service or a common carrier should be utilized for delivery if the directories are to be considered printed sales messages. Regulation 1541.5(a)(4) defines common carrier as "any person engaged in the business of transporting property for hire or compensation and who offers his services indiscriminately to the public or to some portion of the public."

It is our opinion that the principal purpose of the directories is to advertise or promote goods or services. This conclusion is based on the substantial quantity of "yellow pages", center ad color pages, and coupon pages which outnumber the "white pages". In addition, the recipient of the directory receives it at no charge and becomes the owner thereof. However, the exemption from tax for the sale of the directory is conditional. Provided the United States Postal Service or a common carrier, as defined above, are used by the seller, the seller's agent, or a mailing house to deliver the directories, only then will the sale of the directories be considered exempt from tax as printed sales messages pursuant to Revenue and Taxation Code section 6379.5 and Sales and Use Tax Regulation 1541.5

I've enclosed Regulation 1541.5 (Printed Sales Messages) for your information. If you have any further questions, please feel free to write again.

Very truly yours,

E. L. Sorensen, Jr.
Senior Tax Counsel

ELS:md
Enclosure