

**STATE BOARD OF EQUALIZATION**

(916) 445-3723

April 12, 1978

Mr. G--- R---
Attorney at Law
XXX --- --- Drive,
Suite XXXX
--- ---, CA XXXXX

The W--- B--- S---
No Permit

Dear Mr. R---:

Mr. W--- F---, administrator of our --- --- office, has asked me to write to you regarding the question of when the transfer of a Bible will be considered a sale for sales tax purposes as contrasted with a gift in relation to a donation of money.

Section 6006 of the Revenue and Taxation Code defines a "sale" as including "any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration.

Accordingly, when a consideration is specified for which a Bible will be transferred, the transfer is considered a sale whether the consideration is denominated as a donation or otherwise. This includes a situation where a "donation" in a specific amount is requested or suggested. Tax would be measured by that amount or any lesser amount that is received and pursuant to which the Bible is transferred. Any amount received in excess of that would be considered a nontaxable donation.

A Bible will not be considered as sold if there is merely a request for a donation, without in any way suggesting a minimum, or that a "donation" is required as a condition of obtaining or keeping the item.

We have recognized one exception to the rule that a transfer of a Bible will be considered a sale whenever a "donation" in a specific amount is requested or suggested, i.e., where the amount is less than 50 percent of the price paid by the person distributing the Bibles. In that event, the distributor has been considered as a consumer rather than a seller of the Bibles. That approach is based on analogy with provisions in Sales and Use Tax Regulation 1670, a copy of which is enclosed.

Mr. G--- R---

-2-

April 12, 1978
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I understand that you may have some questions regarding exemption for sales in interstate commerce. Enclosed is a copy of Regulation 1620 on that subject.

If you have any further questions, please let me know.

Sincerely,

Thomas P. Putnam
Assistant Chief Counsel

TPP:po

Enclosures