

**STATE BOARD OF EQUALIZATION**

(916) 445-6450

October 29, 1990

REDACTED TEXT

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Dear REDACTED TEXT:

This is in reply to your August 30, 1990 letter regarding the application of California sales and use tax to fees charged by REDACTED TEXT for monitoring services under the following facts you provided:

“REDACTED TEXT is an electronics manufacturer of medical equipment. A separate department of our company, REDACTED TEXT is allocated equipment inventory which is then shipped to hospitals/physicians throughout the United States for use in the REDACTED TEXT monitoring service. This service uses REDACTED TEXT equipment to transmit medical data over the telephone to an independent monitoring service (under contract to REDACTED TEXT and using the REDACTED TEXT name) located outside California.

“The monitoring services are always performed under a doctor’s prescription and billed directly either to the patient’s insurance company or the doctor. The service covers heart arrhythmia/syncope monitoring and transmissions result in an EKG strip which is then either faxed or mailed to the physician depending on established protocols.”

You indicated that, although you understand the application of tax to the use of the equipment and accessories (batteries, electrodes, etc.), you wish an opinion as to the application of tax to the fees charged for the monitoring services.

The California sales tax is imposed upon retailers at the applicable rate of the gross receipts from the retail sale of tangible personal property in this state. (Rev. & Tax. Code § 6051.) The use tax is imposed upon the storage, use, or other consumption of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. (Rev. & Tax. Code § 6201.) We believe that the true object of the contract between REDACTED TEXT and its customers is the performance of a service rather than the furnishing of tangible personal property. See Sales and Use Tax Regulation 1501, Service Enterprises Generally. REDACTED TEXT’ customers contract with the REDACTED TEXT department to receive the information which results from the monitoring rather than the tangible personal property (EKG strip) which is incidentally transferred to the physician or hospital to convey the information obtained through the

monitoring and transmission equipment. Accordingly sales and use tax does not apply to REDACTED TEXT charge for the monitoring service.

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

Enc.

bc: REDACTED TEXT District Administrator