

**STATE BOARD OF EQUALIZATION**

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April 17, 1992

Mr. L--- F. P---
A--- N--- Company
N--- Plaza
N---, IL XXXXX-XXXX

Re: Television Survey Reports
SR --- XX-XXXXXX

Dear Mr. P---:

This is in reply to your letter dated October 31, 1991, regarding N--- survey reports.

In California there is no exemption for sales of information when the information is delivered in tangible form. The only issue is whether a customer has contracted for the information or for the service of compiling the information. The service is not the information; rather, the service is the compiling of the information.

If the service of compiling the information is performed pursuant to the contract in question, then the contract is for a service. The best evidence of a service contract is that the contract price covers the full cost of performing the service, i.e., compiling the data.

Based on the above, it appears that charges for the N--- P--- reports and the N--- New Media Services research described on pages 36 and 42 of "Y--- G--- to R--- and S---" may be nontaxable.

It is our position that "specialty type products" and "industry wide market data," including general reports on various industry segments and standard micro-computer programs, are taxable when delivered on tangible media. N--- products such as D--- Maps, D---'s by N--- territories, W--- W--- Study, A--- R--- on T---, N--- M--- Services, T--- C---, C---, and D---T---, as found in "Y--- G--- to R--- and S---," are examples of products which are taxable when delivered in California as tangible personal property.

Finally, it is our position, as it has been for many years, that sales of the "local market surveys," as typified by the N--- N--- Station Index - V--- in P---, ---, NY, and the N--- N--- T--- Index, N--- T--- R---, September 2-8, 1991, are sales of tangible personal property. These reports previously qualified for exemption as periodicals. However, since the exemption for periodicals

was repealed effective July 15, 1991, all printed "local market surveys" sold at retail in California or purchased for use in California after this date are taxable.

With respect to one of the audits of N---, our understanding is that a second auditor correctly determined that charges for certain N--- reports were not taxable but made that determination for the wrong reason. These reports were not taxable because they were exempt periodicals, not because the charges were for services. As noted above, the legislature repealed the periodical exemption and these reports are now taxable.

If you have any further questions on this matter, please write to us again.

Sincerely,

Elizabeth Abreu
Tax Counsel

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