

July 3, 1968

Gentlemen:

Please refer to our letter to you dated June 25 in which we advised you that only that part of your basic price for the production of a code which approximated the fair market value of the copies of completed codes delivered pursuant to the terms of the contract would be subject to tax, and that tax would apply to that part of the supplemental service charge which approximated the fair market value of supplemental pages.

At the time I reviewed this matter, it was my impression that we had not previously determined how tax applied to receipts from a contract providing for the production of a code. However, further research has disclosed that we have previously considered this situation, and that we have held that under the provisions of our Sales and Use Tax Law, all receipts from the codification and publication of a code constitute receipts from the sale of tangible personal property and are subject to tax. Although the contract may call both for editorial work and for the furnishing of completed copies of the code, we have held that the cost of editorial work is not a proper deduction from taxable gross receipts when the contract calls for delivery of completed copies of the code. Similarly, the cost of editorial work would not be a proper deduction from the sales price in such a case. Under Section 6011, sales price includes any services that are a part of the sale and no deduction is allowed on account of the cost of materials used, labor or service cost, or any other expenses. Accordingly, to the extent that our June 25 letter is inconsistent with our prior ruling, it is hereby superseded. The entire basic contractual price, to the sales price of any sales of copies in addition to those provided for in the contract, the sales price of all tabbed title dividers, and the entire supplemental service sales price are all subject to tax. Thus, your schedule by quarterly calendar periods, commencing with the October-December 1960 quarter, should include the total sales prices of all California sales made by you since that time, and hereafter, you should collect use tax measured by the sales prices of your California sales.

In those cases where completed codes may be offered for sale by a municipality, the sale of those codes by you to the municipality would be a sale for resale and the municipality, assuming it held a valid seller's permit, could give you a resale certificate. We believe, however, that the preferable procedure is for you to collect use tax and then, if the municipality sells the codes prior to using them, it may claim an appropriate deduction on its own tax return in the amount of the price paid to you on the codes on which use tax was computed.

Very truly yours,

J. Kenneth McManigal
Assistant Tax Counsel

JKM:smk [lb]