

(916) 445-3723

March 20, 1992

REDACTED TEXT

Dear REDACTED TEXT,

In your letter of October 23, 1991, addressed to Mr. Lynn Thompson of the Board of Equalization's Chicago office, you summarized your position on the taxability of several of your products. You also provided various sample materials, including a "typical" contract for a local market survey, a sample of a local market survey (REDACTED TEXT, San Diego, Summer 1983), and a description of custom studies from your product manual.

We agree with you that "custom market studies" contracted for in advance with a particular radio or television station, or others such as advertisers, are nontaxable. This is the performance of a service. The contract price includes the charge for compiling the data. The use of a pre-compiled database will not change the application of tax.

We also agree with you that "specialty type products" and "industry wide market data," including general reports on various industry segments, standard micro-computer programs, and data are all taxable when delivered as tangible media. When any of these products are delivered electronically, they are exempt, because there has been no transfer of tangible personal property.

However, it is still our position, as it has been for the past 25 years, that sales of "local market surveys" as typified by the "REDACTED TEXT, San Diego, Summer 1983," and as typically contracted for by your sample "REDACTED TEXT" contract, are sales of tangible personal property. The fact that you may first survey a market to determine that a project is economically viable does not turn the transaction into a service transaction.

Many of these reports previously qualified for exemption as periodicals. The exemption for periodicals has now been repealed. Because your inquiry has been pending for a substantial period of time, we believe it appropriate that you begin reporting tax on sales of your "local market surveys" effective April 1, 1992. We do note that in the typical contract the station has access to daily reports via a data terminal. If this access is separately priced in the licensing agreement, that portion of the contract is nontaxable.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

cc: Mr. Robert Nunes
Mr. Glenn A. Bystrom