

(916) 445-6450

October 7, 1981

REDACTED TEXT

Dear Mr. REDACTED TEXT,

This is in reply to your August 13, 1981 letter regarding the format for the new contract for REDACTED TEXT.

Specifically, you wish to know whether the California Board of Equalization would view the new contract as REDACTED TEXT providing a service for a customer by displaying fireworks rather than REDACTED TEXT selling fireworks to the customer.

The relevant contract provisions are:

“1. The Contractor does hereby agree to furnish to the Sponsor a fireworks display as follows:

“2. In the furnishing of the fireworks display, the Contractor agrees to provide one or more trained personnel to present the said display, such personnel to be the agents and employees of the Contractor, but to act generally under general instructions and directions of the Sponsor provided such instructions and directions do not create any safety hazard for the agent or employee or other persons or property. Except as otherwise provided herein, Contractor shall also provide all fireworks, mortars, frames, sets, lumber, and other equipment and tools necessary for the fireworks display.”

As we understand the terms of the contract, REDACTED TEXT employees will retain possession of the fireworks and explode the fireworks for the Sponsor. If such is the intent of REDACTED TEXT, we believe a statement to that effect should be included in the contract. In such case, we suggest the following opening sentence to the second provision in the contract.

“2. The Contractor and the Sponsor agree that the Contractor will retain title and possession of the fireworks and will explode the fireworks as a service to the Sponsor. In the furnishing...”

In such case, if REDACTED TEXT employees do actually retain possession of the fireworks and explode the fireworks, we believe REDACTED TEXT is providing a service for the Sponsor, and REDACTED TEXT is the consumer rather than the retailer of the fireworks so furnished.

Of course, if REDACTED TEXT gives title to, or possession of, fireworks to the Sponsor in California, we will consider REDACTED TEXT as the retailer of such fireworks.

We trust this answers your questions. If you need further information, feel free to write again.

Very truly yours,

R. L. Dick  
Tax Counsel

RLD:jw

bc: Out-of-State – District Administrator  
Mr. John Murray (CLD)