

(916) 445-3723

June 23, 1988

REDACTED TEXT

Re: REDACTED TEXT

Dear REDACTED TEXT:

This is to advise you of our position with respect to the petition for redetermination of California sales and use tax filed by you on behalf of your client, REDACTED TEXT, on May 7, 1987.

We have had the opportunity to review the REDACTED TEXT file in the course of scheduling this matter for preliminary hearing. Based upon our review, we are prepared to make a recommendation to the Board that your petition be granted.

REDACTED TEXT has acquired blank international driving permits and inter-American driving permits from the Virginia office of the REDACTED TEXT. The REDACTED TEXT, pursuant to the agreement with the United States Department of State and in accordance with international conventions, furnishes regional REDACTED TEXT affiliates blank serially numbered permits in a format established by international treaty. Petitioner pays \$2 for each permit. REDACTED TEXT is required to keep records of the serial numbers of the permits issued. When the United States or a foreign government requests information about an individual to whom a permit was issued, REDACTED TEXT complies with the request by linking the serial number to a specific application.

The Department of State is empowered to either issue the permits itself or delegate the function to another party. The function has been delegated to REDACTED TEXT, and REDACTED TEXT is the only source of the permit forms.

Tax has been assessed on the grounds that the permits are blank forms and are tangible personal property subject to tax. The recordkeeping service has been viewed as merely a service in connection with the sale of the printed forms.

Under our Regulation 1501, "Service Enterprises Generally," persons who perform services are consumers of tangible personal property used in performing the service. See copy of the regulation enclosed. Everyone agrees that REDACTED TEXT is performing a nontaxable service when it issues a permit to an individual motorist for the authorized \$5 fee. As to REDACTED TEXT's acquisition of the permits, we believe that the relationship between REDACTED TEXT and REDACTED TEXT is also predominantly a service agreement and not a sale agreement. REDACTED TEXT performs a substantial service of benefit to petitioner in issuing the numbered permits and maintaining a continuing record of their distribution. The essence of the agreement is the acquisition of the serially numbered blank permits. If the object of the contract were the tangible personal property itself, REDACTED TEXT would buy blank forms from a local vendor.

While we reject your federal preemption analysis, it is our conclusion that the transactions in question are nevertheless nontaxable under this Board's own regulations. It will thus be our recommendation to the Board that your client's petition for redetermination be granted.

You will be advised of the Board's action in due course.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr

bc: San Francisco District Administrator

Petition Unit (Please process this matter for action by the Board. This letter serves as the preliminary hearing recommendation in this case. Herewith the petition file.)