January 17, 1967

Gentlemen:

This will confirm the oral information given you by telephone Monday, January 16, concerning our views as to the application of sales tax to the operations of "C", which we understand is not a part of "H".

Our views are that sales tax does not apply to those charges attributable to the preparation of tax returns under the circumstances which you outlined for us at our recent conference. In general, these are that the computer operation includes the evaluation and development of certain factual information supplied to "C", into completed federal and state income tax returns. We understand that the process includes, among other things, the determination of the availability and amount of deductions and credits; the amount of depreciation recapture; the making of separate computations as to federal and state tax laws when there is a difference; the checking for accuracy of the information submitted and the reporting back as to errors. The tax practitioner is advised of the above items by a fact sheet which accompanies the completed return.

It is our view that these activities bring your computer operation within the second sentence of the sales tax counsel ruling of September 28, 1966. Under this ruling, a company engaging in the type of activity described above is the consumer of the tangible personal property utilized in the rendering of its services. "C", accordingly, is the consumer of the three copies of prepared returns, one of which, according to our understanding, is filed with the taxing agency, the other goes to the accountant who uses the services of "C", and the other to the taxpayer.

"C" is, however, the retailer of all supplies it provides to its clients such as the interview sheets and other forms. It is also the retailer of the proforma work sheets which are used by the accountant for the following year.

A notice of determination was mailed to "S" under date of December 22, 1966. The letter of January 6, 1967 signed by "M", President, requesting a ruling, makes no mention of this determination. As I explained to you by telephone today, we should have a petition for redetermination on file before the finality date of the determination, January 21, 1967. This is because the Board will be unable to take formal action to redetermine the tax prior to that time.

Our recommendation to the Board will, of course, be to delete from the measure of the determination the amount attributable to the services of preparing tax returns, in accordance with the opinion expressed in this letter. We note that there was a small item described as Sale of Magnetic Tape, in the amount of $15,340, which has been agreed to by the taxpayer and will, of course, remain in the redetermination. The remaining amount, $411,490, which relates to the preparation of the returns, will be adjusted in accordance with the views set forth in this letter.

E. H. Stetson
Tax Counsel

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