



STATE BOARD OF EQUALIZATION

(916) 445-6493

November 24, 1986

_____ movies provided to hotel guests

In your September 25, 1986 letter to the Board's legal staff, you enclosed for our review a copy of your agreement with _____, dated December 19, 1985, your application to the Board for a seller's permit, and a brochure which lists for hotel guest viewers the _____ movies available on your hotel's television equipment. Your agreement with _____ calls for _____ to install certain equipment on the hotel's premises for use in showing movies to hotel guests over the hotel's television system. The movies, on cassettes, will be provided by _____ to the hotel, loaded into the equipment by the hotel, and viewed by the guests in their hotel rooms on a pay-per-view basis by tuning the guest room's television to the appropriate channel.

On your seller's permit application, the type or nature of business states is, "in-house movies." Your question is whether this permit is a necessity. We interpret your letter to raise the question of whether your showing these movies to your hotel guests is a taxable transaction.

Opinion

Our opinion is that tax does not apply to your charges to your guests for viewing these movies. This is because there is no tangible personal property transferred to the hotel guests. Instead, they merely tune the hotel's television set to the channel on which the movies are showing. Under the Sales and Use Tax Law, a taxable sale or lease requires the transfer of tangible personal property and, in this instance, the hotel guest has not received possession of any tangible personal property. Tax will apply only to _____ lease of the equipment and the cassettes to the hotel, unless _____ has paid tax measured by the purchase price and leased the equipment and cassettes in the same form as it acquired them. Revenue and Taxation Code Section 6006, 6010.

Accordingly, you need not hold a seller's permit for the activity of showing in-room movies to the hotel's guests. We cannot, of course, say whether or not you are required to hold a seller's permit for any other activities.

Sincerely,

John Abbott
Tax Counsel