



STATE BOARD OF EQUALIZATION

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February 17, 1993

Mr. G--- H. B---, CPA
Tax Manager, Office of the Controller
J---
XXX --- Hall
XXXX --- ---Street
---, Maryland XXXXX-XXXX

Re: [No Permit Number]
Sales of Meals to Students

Dear Mr. B---:

I am answering your letter of January 13, 1993. You were following up on our telephone conversation of the previous day regarding the application of sales tax to sales of meals to students participating in the J--- Center for Talented Youth ("CTY") program.

You indicate that CTY conducts summer programs for students in California. The 1992 program was held at [university] and they charged 8.5% sales tax on the food consumed by the students. You ask whether such sales should have been exempt from sales tax under Regulation 1603(j)(1). From your description, we assume that [university], rather than an outside caterer, sold the meals to the students.

You enclosed a number of brochures describing the CTY program, including the Summer Programs 1992 Catalogue. It shows that the program at [university] offered extensive courses in Mathematics, Humanities, Computer Science, and Science. It also notes that CTY courses "can also enable students to accelerate their courses of study in their regular schools." Students can often get high school, and even college, credit for CTY courses.

In California, except where specifically exempted by statute, Revenue and Taxation Code Section 6051 imposes an excise tax, computed as a percentage of gross receipts, upon all

retailers for the privilege of selling tangible personal property at retail in this state. (Unless otherwise noted, all statutory references are to the Revenue and Taxation Code.) Section 6369, interpreted and implemented by Regulations 1602 and 1603, provides an exemption from sales and use taxes for sales of food products for human consumption under certain circumstances. As you note, Regulation 1603(j)(2) provides an exemption for sales by a school of meals or food products for human consumption to students of a school.

We have previously defined "student" as any person formally enrolled in a school, college, or university. Both J--- and [university] are well-known universities. Qualified youth must apply to the program and be accepted. They get credit which may either be transferred to their school or at least help them advance in their schools' programs. They may also get some college credit.

Based on the above authority, we conclude that persons enrolled in the CTY program are "students" within the meaning of Regulation 1602(j)(2). As a result, [university]'s sales of meals to CTY Program students are exempt from tax. Since [university] is the retailer, it is the proper party to file a claim for refund with the Board.

For your information, I have included a copy of Regulation 1603. I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid
Tax Counsel

JLW:es

Enclosure: Reg. 1603