

M e m o r a n d u m**390.0130**

To: Mr. Todd Dingley
Compliance Policy and Evaluation Unit

Date: March 17, 1989

From: Ronald L. Dick
Tax Counsel

Subject: Application of Revenue and Taxation Code Section 6361.1 to
Associated Student Bodies

This is in further response to your recent memorandum regarding the above subject.

After I had written you the March 14, 1989 memorandum, I received the copies of requests from the various Associated Student Bodies (ASB). The information provided by the various ASBs raised issues beyond those discussed in our memoranda.

The requests from [Name] School District indicate that the ASB would sell T-shirts, school bags, school pens and pencils and other supplies. Under Revenue and Taxation Code 6361 and 6361.1, the associations are consumers of "food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization which it sells on an irregular or intermittent basis...." This raises the issue of whether we should consider the T-shirts and other property as "produced" by the members of the organization. We believe that, if the T-shirts, etc., have the school name or logo or other similar custom insignia, then we should consider the products as "produced" by the members even though actually manufactured by someone else. On the other hand, plain T-shirts, pens and pencils, and other products with no custom insignia are not produced by the members of the organization for purposes of the section.

Another issue is whether the organizations sell the items on an "irregular or intermittent" basis as defined in section 6361. Of course, if the ASB sells the property at a bookstore or some other permanent shop on the school premises, the association is a retailer of the property regardless that the property is made or produced by the members.

If you have further questions regarding this, feel free to write again.

RLD:sr