



**STATE BOARD OF EQUALIZATION**

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August 19, 1993

Mr. D--- - F---  
C--- & L---  
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XXX --- ---  
---, CA XXXXX

Dear Mr. F---:

This is in response to your letter of April 28, 1993, which requested our opinion as to the application of sales or use tax to sales of printed sales messages purchased to your client.

Your client is a wholesale and retail distributor of tangible personal property with offices in California. Catalogs which describe products and prices are regularly sent to its customers throughout the country, without charge. The catalogs are printed to the special order of your client by a non-California printer, usually enough for several mailings. A mailing house in California usually ships them by common carrier or postal service.

There are three ways in which the catalogs are handled:

1. The printer delivers most of the catalogs (which are to be distributed in the next mailing) to the mailing house for shipping to clients' customers.
2. The printer delivers some of the catalogs to your client for distribution directly to its customers.
3. The balance of the catalogs, which will be held until a future "regular interval" mailing time comes, are shipped to your client's warehouse where they remain on pallets until the mailing house sends a truck to pick them up for the next mailing.

You requested that we verify your conclusion that the catalogs in examples 1 and 3 are exempt from tax under Revenue and Taxation Code section 6379.5 and Regulation 1541.5, and that the catalogs in example 2 are subject to tax.

It is our opinion that your conclusions are correct as to examples 1 and 2, but not 3, if our stated assumptions are correct. We assume that the catalogs consist substantially of printed sales messages which become owned without cost by the customers to whom they are distributed.

With regard to example 3, the Board has held that Revenue and Taxation Code section 6379.5 and Regulation 1541.5 require that to be eligible for the exemption as "printed sales messages," the delivery of the property must be to "any other person," without first being delivered to the purchaser. In your case, the receipt by your client of the property precludes your client from use of the printed sales messages exemption.

If you have further questions, please contact me.

Sincerely yours,

Donald L. Fillman  
Tax Counsel

DLF:wk