



**STATE BOARD OF EQUALIZATION**

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July 17, 1992

Ms. G--- C---, Controller  
E--- S--- Corporation  
XXXX --- Avenue  
---, California XXXXX

Re: Dial-up Access to Computer Databases  
SR – XX-XXXXXX

Dear Ms. C---:

This is in response to your letter dated June 12, 1992, in which you state:

"E--- S--- Corporation (ESC) is offering two dial-up computer database services. According to Sales and Use Tax Regulation 1502, these services are nontaxable. Under 'Basic Applications of Tax,' number (7) states that, 'Charges made for the use of a computer, on a time-sharing basis, where access to the computer is by means of remote telecommunication are not subject to tax.'

"These services are: C--- T---, for dial-up to the California Database; and U--- T---, for dial-up to the Utility Query, Analysis and Reporting System.

"A subscriber to each service can:

- 1) Gain access to ESC's computer database through the telephone lines with a personal computer and modem;

- 2) View on-screen the statistical information contained in the database;
- 3) Issue commands to retrieve and manipulate data and generate tabular reports;
- 4) Download reports to his/her own PC and produce printed copies if desired.

"Charges for both services are dependent on level of usage. Descriptions of the dial-up services are enclosed for your information. We would appreciate your official acceptance of these services as nontaxable so we do not have to charge our clients sales tax."

You enclosed brochures for C--- T--- and U--- T---. The C--- brochure indicates that subscribers have PC dial-up access to thousands of monthly, quarterly, and annual economic and demographic statistics. This brochure also indicates that subscribers can quickly generate pre-formatted presentation quality reports using C---'s simple selection screen and help screens and produce custom reports requiring complex computations and special formats with only a few keystrokes. Subscribers can also view reports on-screen or automatically download reports to their PC for use with their favorite spreadsheet, graphics program, or other software.

The U--- brochure indicates that subscribers have PC dial-up access to ESC's extensive Utility Query, Analysis and Reporting System, a source of data for utility industry analysis and benchmark studies. Subscribers can select the data and presentation formats they require from selection and help screens, view data reports on-screen, and automatically download the reports to their PC's.

We are assuming from your letter that all of the reports received by subscribers are sent through telephone lines and that any hard copies of such reports are generated by a subscriber by downloading the information to his or her PC and printing the report on the subscriber's printer. In other words, we assume that ESC is not sending or otherwise delivering any printed reports or other tangible personal property to the subscribers.

Revenue and Taxation Code section 6051 imposes a sales tax on all retailers measured by their gross receipts from retail sales of tangible personal property. Only retail sales of tangible personal property are taxable. Several years ago the Board's staff concluded that the electronic transmission of information does not involve the transfer of tangible personal property and therefore charges for such transmissions are not taxable. Regulation 1502(c)(7) specifically provides:

"Charges made for the use of a computer, on a time-sharing basis, where access to the computer is by means of remote telecommunication, are not subject to tax."

If our assumptions which we stated above are correct, ESC's charges for subscriptions to C--- T--- and U--- T--- are not taxable.

If you have further questions regarding sales and use tax law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu  
Tax Counsel

EA:cl

bc: --- District Administrator