



175.0300

STATE OF CALIFORNIA

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**STATE BOARD OF EQUALIZATION**

916-445-3237

August 12, 1982

REDACTED TEXT

Dear REDACTED TEXT:

Your letter of July 9, 1982 to Mr. Gary Jugum has been referred to the undersigned for reply. You have requested an advisory opinion on whether or not a company would subject itself to California sales tax collection responsibilities based on the following facts:

- (1) The organization does not maintain any office, distribution house, sales house, warehouse or any other place of business in the state;
- (2) The organization does not have any agent, salesman, solicitor or other type of representative in the state to sell or take orders or to deliver merchandise or to accept payments or to service merchandise which it sells;
- (3) The organization does not own any property, real or personal, in California;
- (4) The organization has not advertised its merchandise for sale in newspapers, on billboards, or by radio or television in California;
- (5) The organization does not have any contact with California, except via United States mail or common carrier except that it proposes to have a local telephone number listed in the "Yellow Pages," calls to which will be automatically forwarded over that public switching network via a national 800 service line and will be answered in Minnesota. The organization would be billed by the local Bell office providing the service in California whose tariffs are set locally.
- (6) The organization's dealings and contract would be with the local California Bell representative only.

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Revenue and Taxation Code section 6203 provides that every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state shall collect use tax from its California purchasers.

A retailer engaged in business in this state includes the following:

“Any retailer maintaining, occupying or using permanently or temporarily, directly or indirectly or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room, or place, warehouse or storage place of other place of business in this state.

Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the retailer or its subsidiary for the purpose of selling, delivering or taking of orders for any tangible personal property.”

We are of the opinion that if your client’s only contact with California is through an automatic public switching network provided by the telephone company which forwards calls through an “800” service line which are answered in Minnesota, it will not be considered to be a retailer engaged in business in this state for purposes of imposition of the use tax collection responsibilities required by section 6203. The telephone listing, without more, is not sufficient to constitute an office, place of distribution, sales or sample room.

If you have further questions concerning this matter, please write this office again.

Very truly yours,

Mary C. Armstrong  
Staff Counsel

MCA:ba