



STATE BOARD OF EQUALIZATION

(916) 445-3723

June 11, 1990

Dear

Your letter to Ms. Barbara Beck of May 30, 1990 was referred to this office for reply.

We understand there is a franchise called --- that will be opening up in California. The main business is selling time in a play/fitness --- for children. Time is paid for by the hour, with two different rates--one for club card members and one for non-club card members.

Non-club card members receive nothing more than the rental of time in the ---. When they sign up, Club card members receive a club shirt, canister of --- balls, free two-hour pass in the Zone, quarterly magazine and club membership card which entitles them to the lower rates per hour in the ---. The club card pack will sell for a flat amount, for example, \$25.95.

You indicated that you think that the sale of the club card package; with the shirt and balls, may be taxable, as the club card member receives something tangible. You further assume that all hourly sales of rental time in the --- would not be subject to tax.

We agree with your analysis. Time charges are not taxable. The charge for the club card is subject to tax. At a minimum, tax applies to the fair retail selling price of the shirt and canister of balls. If the fair retail selling price of the taxable item cannot be ascertained, tax applies to the entire club card fee.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr
cc: Ms. Barbara Beck