

**STATE BOARD OF EQUALIZATION**

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Mr. P--- R. K---
Office of the General Counsel
O--- S--- C---
XXX --- Blvd., Suite XXX
---, CA XXXXX

SR -- XX-XXXXXX

Dear Mr. K---:

From the information supplied in your letters, our telephone conversation, and my conferences with other staff members, the situation appears to be as follows:

O--- S--- C--- (OSC) is presently engaged in the pay television business. In return for periodic payments, it contracts with individual retail customers to provide them with television programming.

In order to receive OSC's programming, each customer must be a subscriber to a CATV antenna system. OSC does not have any CATV antenna systems so the customer must separately contract with a company unrelated to OSC. The CATV service also transmits programming unrelated to OSC programming.

When a customer contracts to receive OSC's programming and is connected to a CATV antenna, OSC attaches its "home terminal unit" to the customer's television receiver. The home terminal unit unscrambles a signal which OSC transmits over the CATV lines and with the CATV company's permission. Without the home terminal unit provided by OSC, the normal television receiver will not display the OSC programming. The customer's only manipulation of the home terminal unit is to turn it on and off. If the home terminal unit malfunctions, OSC replaces it with a new unit. The only possible function of the unit is to unscramble the signals which OSC generates in its television studios, scrambles, and transmits over the CATV antenna system which connect its studios with the customers' television receivers.

OSC programming presently consists of motion picture films televised in its own studios for transmission over CATV antenna systems.

OSC charges a refundable deposit and a nonrefundable installation charge when the agreement is initially made with the customer. In addition, uniform periodic charges are made to the customer. The single periodic charge is for the programming provided by OSC during that period.

It appears to us that OSC is not renting or leasing the home terminal units to the customers within the meaning of Revenue and Taxation Code Section 6006(g), but is using the home terminal units to provide the customer programming services for the purposes of the Sales and Use Tax Law.

Very truly yours,

Philip R. Dougherty
Tax Counsel

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