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STATE OF CALIFORNIA

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STATE BOARD OF EQUALIZATION

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001

TELEPHONE (916) 445-6450

May 6, 1992

REDACTED TEXT

REDACTED TEXT

Dear REDACTED TEXT:

This is in reply to your March 2, 1992 letter regarding the application of use tax to charges for list rentals.

You sent a copy of the agreement between REDACTED TEXT and REDACTED TEXT. The agreement provides that REDACTED TEXT appoints REDACTED TEXT to act as a "list manager" for the "REDACTED TEXT" mailing list. Under the contract, the duty of REDACTED TEXT is to promote the rental of the names. REDACTED TEXT bears all expenses for that promotion and sales effort.

For compensation, REDACTED TEXT retains 30 percent of the gross rental price. The contract goes on to indicate that a third party "broker" may be involved and that REDACTED TEXT will remit 20 percent of the gross rental price to the broker and retain only 10 percent for REDACTED TEXT services.

Based on the information you have provided, we believe that REDACTED TEXT is the lessor of the lists, and REDACTED TEXT merely acts as an agent on behalf of REDACTED TEXT in managing the mailing list. Accordingly, we believe that REDACTED TEXT is the retailer responsible for collecting California use tax from the lessees.

Very truly yours,

Ronald L. Dick  
Senior Staff Counsel