



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 322-3684

February 25, 1988

Dear Mr. ---:

Your letter of December 10, 1987 has been referred to me for a response. You request an opinion concerning the correct application of tax to you sales of assistive listening devices, sound enhancement systems and hearing amplifiers. However, enclosed with your letter were brochures that only describe the assistive listening devices. Therefore, we assume for purposes of this opinion that you are requesting our opinion for the correct application of tax to your sales of the described assistive listening devices only since the sound enhancement systems and hearing amplifiers are not described. If you provide us with information describing the sound enhancement systems and hearing amplifiers, we will provide you with our opinion concerning the correct application of tax to the sale of each of these items.

As I understand the facts, you are a licensed hearing aid dispenser. The described assistive listening devices are FM systems which consist of two pieces of equipment. The first piece is a FM receiver with an attached listening device (earbud) fully worn on the body of the hearing impaired person. The second piece is a microphone connected to a FM transmitter. Both the microphone and FM transmitter are fully worn on the body of the person speaking to the hearing impaired person. The speaker talks into the microphone and the sound is sent by the transmitter, by way of an FM signal, to the receiver, which delivers the signal directly to the hearing impaired person via a listening device (earbud) placed in the ear.

California Sales and Use Tax Law imposes a tax on the gross receipts of retailers from all retail sales of tangible personal property in this state except where such sales are otherwise specifically excluded or exempted from tax by statute (Rev. & Tax. Code § 6051).

Revenue and Taxation Code Section 6018.7 provides that “[a] licensed hearing aid dispenser is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to hearing aids sold or furnished by him or her.” Sales and Use Tax Regulation 1506(e), which interprets and applies Revenue and Taxation Code Section 6018.7, provides, in pertinent part, that “[t]he term ‘hearing aid’ includes any necessary accessory or component part of the hearing aid....”

The term "hearing aid" is defined in Business and Professions Code Section 3305 as "any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing."

Enclosed with your letter was a copy of an opinion from the Board of Medical Quality Assurance, Hearing Aid Dispensers Examining Committee, which concluded that fully wearable assistive listening devices, such as those described above, are hearing aids pursuant to Business and Professions Code Section 3305. We note that the above described devices are fully worn on the body of the user and are designed to compensate for impaired human hearing. Therefore, it is our opinion that the described assistive listening devices are hearing aids for purposes of Revenue and Taxation Code Section 6018.7 and Sales and Use Tax Regulation 1506(e). Accordingly, you are the consumer of the described listening devices sold by you and the gross receipts from your sales of these items are not subject to tax.

I hope the above information is helpful. If you have any further questions concerning this topic, please do not hesitate to write this office.

Very truly yours,

Robert J. Stipe
Tax Counsel

RJS:sr