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July 27, 1992

This is in reply to your April 6, 1992 letter regarding the application of California sales and use tax to sales of publications by ---.

You explained that --- publishes Consumer Reports, Zillions, Travel Letter, and Consumer Reports on Health. --- and its products, maintains federal tax-exempt status under section 501(c) (3) of the Internal Revenue Code and does not receive revenue from, or accept, any commercial advertising. Given this information, you ask that we confirm that the sale or use of the publications is exempt from California sales and use tax pursuant to Revenue and Taxation Code section 6362.8, which provides, in relevant part:

"(a) There are exempted from the taxes imposed by this part, the gross receipts from the sale of, and the storage, use, or other consumption in this state, of tangible personal property that becomes an ingredient or component part of any newspaper or periodical, or any such newspaper or periodical.

(b) This section shall apply only with respect to any of the following:

(1) Any newspaper or periodical published or purchased by an organization that qualifies for tax-exempt status under Section 501(c) (3) of the Internal Revenue Code, and to which any of the following apply:

(A) Distribution is to the members of the organization in consideration of payment of the organization's membership fee, or to the organization's contributors.

(B) The publication does not receive revenue from, or accept, any commercial advertising.... "

You did not provide a copy of the publications; therefore, we will assume that each of these publications qualifies as a "periodical" as defined in proposed Sales and Use Tax Regulation

1590 at subdivision (a) (2). In such case, we believe that the sale or use of the publications is exempt from California sales and use tax.

We hope this answers your questions; however, if you need further information, feel free to write again.

Very truly yours,

Ronald L. Dick
Senior Tax Counsel

RLD: sr
Enc.