



STATE BOARD OF EQUALIZATION

(916) 322-3680

December 18, 1975

Dear ---

We are replying to your letter of 28 October 1975 which supplemented the information previously submitted regarding the tax status of publications issued by the --- Board of Realtors -- in connection with their Multiple Listing Service (HLS). Your contention is that the property sold data of the MLS publications in question is actually a source of historical market information for the area served by --- and goes far beyond a mere listing of property sold. The property sold data of the publications in "question reports all sales in the area by indices which state the geographical district within the area, the number of bedrooms, the actual sales price of specific property, the listing price for that property, the terms of sale and method of financing, the listing broker, the selling broker, the sales agent, the date of sale, and the number of days on the market.

Such information is seen as a report of past transactions from which a member broker can research price trends by area or by street and gain insight on market values of property within the indexed classifications. You would see this as clearly a type of market analyses which the Board staff has in the past considered "periodical" in nature, rather than a list of property sold within the meaning of Business Taxes Law Guide (BTLG) Annotation 335.0340.

After again studying the format of the publications in question, we agree with your contention that the property sold data is more in the nature of market analyses than advertising or deletion of property for sale. Therefore, the property sold portions of the publications in question should be considered as "news" for purposes of the "10 percent news test" (BTLG Annotation 385.0540). So applying the test results in all three of the submitted exhibits qualifying as "periodicals" within Section 6362 of the Sales and Use Tax Law.

We wish to emphasize our continuing position that a mere list of property sold, the principal purpose of which is the deletion of property sold from the current list of property for sale, is not considered "news" of a "periodical" nature. The sale or purchase of such lists remains subject to tax.

In the hope of further clarifying this subject we note that certain boards of realtors publish a daily hotsheet. These hotsheets are usually xeroxed and differ somewhat in format, but in the main are listings or deletions of property for sale. A separate charge is made by the board for such hotsheets. These hotsheets are subject to the "10 percent news test" separate and apart from any other MLS publications.

We shall send copies of this letter to the Board's Petition Unit and district audit staff so that the above guidelines may be used in concluding the Riverside audit.

Very truly yours,

Donald J. Hennessy
Tax Counsel

DJH: rt
cc: ---
bc: ---