

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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916/445-6493

February 3, 1984

Mr. A--- J. S---
XXXX ---
---, CA XXXXX

Dear Mr. S---:

Your letter of November 23, 1983 has been referred to me for reply. You request clarification of the term "advertising portion," as it is used in subsection (a)(2) of Sales and Use Tax Regulation 1590, "Newspapers and Periodicals."

As defined under Regulation 1590(a)(2), the term "periodical" is limited to those publications which appear at stated intervals, each issue of which contains news or information of general interest to the public, or to some particular organization or group of persons. Excluded from the term "periodical," however, are "shopping guides, or other publications of which the advertising portion, including product publicity, exceeds 90 percent of the printed area of the entire issue in more than one-half of the issues during any 12-month period." (Emphasis added.)

You ask whether legal notices are considered "the advertising portion, including product publicity," or is it that portion "which contains news or information of general interest to the public." It is your contention that the term "advertising" refers only to product publicity wherein the purpose of the advertising is to have the reader purchase, whereas legal notices are strictly informational and are required by law.

The meaning of the term "advertising portion," as it is used in Regulation 1590, is not as narrow as you contend. The "advertising portion" of a shopping guide or other publication includes all forms of advertisements. This part of such publications is not only limited and restricted to the type of advertisements which have as their purpose the sale of a product or service, but instead includes all forms of public announcements and notices, as well as encompasses product publicity.

Therefore, in our view, a shopping guide or other publication's advertising portion would include legal notices when the exclusionary test under Regulation 1590(a)(2) is applied.

If you have any further questions concerning this matter, please write this office.

Very truly yours,

Charles J. Graziano
Tax Counsel

CJG:ba

bc: --- --- – District Administrator