

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION – MIC: 85
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082
TELEPHONE (916) 324-2653
FAX (916) 324-2618

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Executive Director

August 1, 1996

Mr. J--- S---, Controller
S--- M--- Services, Inc.
XXXXX --- Avenue
---, California XXXXX-XXXX

Re: Printed Sales Messages

Dear Mr. S---:

This is in reply to your letter of May 6, 1996 regarding the application of the sales tax to charges for printed sales messages delivered to consumers on disk, diskette and videotape.

Sales and Use Tax Regulation 1541.5 concerns the application of tax to sales of “printed sales messages.” The regulation implements and interprets *Revenue and Taxation Code* section 6379.5 which provides an exemption for the sale of “catalogs, letters, circulars, brochures, and pamphlets” consisting substantially of printed sales messages for goods and services when delivered in accordance with the statute. As an exemption statute, section 6379.5 must be strictly construed. The Board cannot look beyond the plain language employed to expand or enlarge the description of exempt materials. (*McConville v. State Board of Equalization*, (1978) 85 Cal.App.3d 156.) In *Sales and Use Tax Annotation 432.0028 (5/3/93)*, developmental software which a software company supplied free to consumers was found not to be within the exempt category, and tax applied to the vendor’s charge to the software company for the disks and the disk duplicating.

Accordingly, we believe that tax would apply to the sale to your customers of the disks, diskettes, videotape, and the duplicating provided by you for your customer.

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

Very truly yours,

John S. Butterfield
Tax Counsel

JSB/cmm