



STATE BOARD OF EQUALIZATION

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Executive Director

May 4, 1995

X-----

Dear X-----,

Your letter dated March 22, 1995 to Honorable Brad Sherman, Board Member, Fourth District, regarding the application of the Sales and Use Tax Law to your sales of sample books has been referred to the Legal Division for response.

You explain that you manufacture sample books and cards. Your customers furnish fabric to you, either directly or through their suppliers. You cut the fabric, and then print, label, and assemble it into sample books or swatches. You state that the sample books are then "shipped to the user, in this particular case by a mailing house, at no cost to the receiver."

You indicate your opinion that these transactions satisfy the conditions of the printed sales message exemption set forth in subdivisions (b) (1) through (b) (3) of Regulation 1541.5. Thus, as I understand your question, you ask whether we regard the sample books as printed sales messages within the meaning of the exemption provided by Revenue and Taxation Code section 6379.5 and explained in Regulation 1541.5. If sample books qualify as printed sales messages and their sale satisfies the conditions set forth in subdivisions (b) (1) through (b) (3) of Regulation 1541.5, no sales or use tax applies to the transaction. If the sample books do not qualify as printed sales messages, your sales do not qualify for the printed sales message exemption.

The exemption is limited to the sale or use of catalogs, letters, circulars, brochures, and pamphlets consisting substantially of printed sales messages for goods and services. (Rev. & Tax. Code § 6379.5; see Reg. 1541.5(a) (1).) A catalog consisting substantially of printed sales messages would not be disqualified from as a printed sales message merely because it contained an incidental sample. On the other hand, a sample book does not qualify as a printed sales message merely because it contains some incidental printing. Thus, we do not regard sample books of the type you manufacture as constituting printed sales messages. Any printing on the sample books is ancillary to the fabric, which is the primary marketing tool. That is, the sample books do not appear to consist substantially of printed sales messages for goods and services, but rather to consist substantially of samples. Your sales therefore do not qualify for the printed sales message.

If you have further questions, feel free to write again.

Sincerely,

David H. Levine
Supervising Staff Counsel

DHL:cl

Cc: Honorable Brad Sherman