

**STATE BOARD OF EQUALIZATION**

(916) 445-8485

March 1, 1989

Mr. L--- W---, Comptroller
K--- G--- I---, Inc.
XXXX --- ---
---, California XXXXX

SR -- XX XXXXXX

Dear Mr. W---:

This is in response to your December 19, 1988, letter to the Board's legal unit. You have requested an opinion concerning whether K--- G--- I---, Inc.'s (K---) sales of printed materials to [---] [---] of [---], Inc. (Z) are exempt from sales tax as sales of printed sales messages pursuant to Revenue and Taxation Code section 6379.5 and Sales and Use Tax Regulation 1541.5.

It is our understanding of the facts that the printed materials which K--- sells to [Z] are printed to the specifications of [Z]. These printed materials consist of letters, a brochure, and posters. Of the three letters you enclosed, one is addressed to [Z] dealers introducing [Z]'s new engine programs; one is a sample letter sent to [Z] dealers which they can copy and send to their prospective customers. This letter details the format of the new engine program by listing all the included components which comprise the replacement engines; and, the third letter introduces to [Z] dealer parts managers posters that can be displayed which advertise [Z] automotive products. The brochure combines pictures and printed words announcing and detailing [Z]'s new engine program. The posters consist of pictures of [Z] automobiles and accessories. One suggests the purchase of a car for Christmas while the other indicates that consumers can fulfill all their needs by shopping at [Z].

K--- also sells to [Z] envelopes and mailing tubes in which the letters, a brochure, and posters are enclosed for mailing. Further, K--- mails the envelopes and mailing tubes which enclose the letters, brochures, and posters to all the [Z] dealers.

Except where the sales are specifically exempted by statute, sales tax applies to the gross receipts of retailers for all retail sales of tangible personal property in this state (Rev. & Tax. Code § 6051). Section 6379.5 and Regulation 1541.5 provide an exemption from tax for the sale, storage, use or other consumption in this state of catalogs, letters, circulars, brochures, and pamphlets consisting substantially printed sales messages for goods and services. To qualify for the exemption, the printed sales messages must be:

1. Printed to the special order of the purchaser for the principle purpose of advertising or promoting goods or services.
2. Mailed or delivered by the seller of the printed material, the seller's agent or a mailing house acting as an agent for the purchaser, through the United States Postal Service or by common carrier.
3. Received by any person other than the purchaser or purchaser's agent at no cost to the person who becomes the owner of the printed material.

Pursuant to the foregoing criteria, it is our opinion that the letters, brochures, and posters are printed sales messages within the meaning of Revenue and Taxation Code § 6379.5 and Sales and Use Tax Regulation 1541.5. The principal purpose for each is to advertise or promote a good or service; they are mailed or delivered by K---, the seller of the printed material; and, they are received by persons at no cost. Additionally, it is our opinion that K---'s sales of envelopes and mailing tubes are also exempt from tax since each are sold with the printed sales messages for shipment or delivery. (Sales and Use Tax Regulation 1541.5(b)(7).)

I have enclosed Sales and Use Tax Regulation 1541.5 (Printed Sales Messages) for your information. If you should have any further questions concerning this matter, please feel free to write again.

Very truly yours,

E. L. Sorensen
Senior Tax Counsel

ELS:cl

Enclosures

cc: --- District Administrator