

**STATE BOARD OF EQUALIZATION**

(916) 445-2641

May 11, 1976

This is in response to your letter of April 30, 1976.

We understand that you are planning to open a business in the near future and would like an opinion as to whether or not your product would be taxable under the Sales and Use Tax Law.

Your product is a map of the world which is preprinted, but to which is added computer generated data, different in each case. The forms that are entered into the computer are printed maps of the world. The computer is given the birth date of each individual client, and it draws on the maps, by programmed mathematical formulas, the locations of the planets at the time of birth, as they stood over certain parts of the world at that individual's birth moment.

This information is presumed to have astrological value, but, this is not a birth chart the client receives, but a map of his or her birth chart projected mathematically upon the earth.

Accompanying this map, which is different in each case, and of which only one copy is made, is a key of symbols and interpretations, which is a printed pamphlet that describes how to use the map and what the lines on it mean. The booklet by itself would have no value, as it refers only to symbols that are on these maps, and thus could not be sold apart from the maps. The map of the world is a federal government map, which you purchase in quantity at a cost of about 40 cents each. The printed pamphlet costs you about \$1.00. The computer time for each map will be the largest cost and should run you between \$4 and \$6. You intend to have a contract with a computer programmer to furnish you with completed maps at a flat fee. Mode of purchase is direct and/or mail order.

The client will pay \$18 for your product.

Revenue and Taxation Code Section 6006 provides that "sale" means and includes a transfer for a consideration of the title of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication.

Not all transactions involving the transfer of tangible personal property are viewed as sale transactions however.

The basic distinction in determining whether a particular transaction involves the sale of tangible personal property or the transfer of tangible personal property incidental to the performance of a service is one of the true object of the contract; that is, is the real object sought by the buyer the service per se or the property produced by the service? If the true object of the contract is the service per se, the transaction is not subject to tax even though some tangible personal property is transferred.

Although the matter is not free from doubt, we are of the opinion that the transactions before us are service transactions and not sale transactions even though certain tangible personal property is transferred to the client. These transactions are not taxable because of the conjunction of two circumstances. First, each map is custom produced for a particular client. (If the maps were of a prewritten or "stock" character, the tax would apply.) Second, what is sought by the client is information as to the relative locations of the planets at the time of the client's birth. The object is not the map itself but the information graphically presented on the map.

Very truly yours,

Gary J. Jugum  
Tax Counsel