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Out-of-State Unit (SO)

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REDACTED TEXT

The above taxpayer is an out-of-State organization engaged in the business of providing aptitude or intelligence tests to schools and other educational institutions.

Apparently, its method of operation is to provide the school with test booklets and answer sheets. The school administers the tests and sends the test booklets and answer sheets back to taxpayer to be scored. Taxpayer returns the scored answer sheets to the school but retains the test booklets. The charge is a flat fee for each student taking the test.

It is our opinion that under the circumstances taxpayer is engaged in rendering a service rather than making a sale of tangible personal property and that the supplying of booklets and answer sheets is tangible personal property used and consumed by taxpayer in performing this service. Therefore, taxpayer would be the consumer of these materials used in California and would be subject to use tax measured by the cost of these materials to it.

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