

**M e m o r a n d u m****515.1184**

To: San Mateo - Auditing

Date: March 29, 1984

From: Charles J. Graziano

This is in reply to your memorandum of January 17, 1984 with regard to the current audit of the above-referenced taxpayer. You request our opinion as to the correct application of tax to taxpayer's multi-client research reports.

We understand that the taxpayer conducts an ongoing research project entitled [a] and [b]. At approximately one to one and one-half year intervals, the taxpayer furnishes its clients a written report and several "follow-up" reports. The follow-up reports are provided on an irregular basis, and only when there is a significant change in world events which has an effect upon the conclusions made in the previous report. Because of the costly nature of the research required to produce each primary report, the taxpayer determines the report's marketability by canvassing both its current and prospective clients. Apparently, the taxpayer undertakes these research projects in response to the general needs and interests of a specific pool of potential customers. When there appears to be sufficient interest among this group of potential clients in the project to make the taxpayer's investment worthwhile, the taxpayer will complete the research and produce a report on its findings. A customer obtains the final report by subscribing to taxpayer's "service" and paying a predetermined fee. Each subscriber obtains five copies of the completed report with additional copies furnished upon request without an additional charge. Presumably, each client also receives the same number of "follow-up" reports when they are issued.

Essentially, taxpayer contends that it only furnishes nontaxable services to its clients, and that the transfer of written reports is incidental to the performance of these nontaxable services. We would agree with taxpayer's contention in this matter provided, however, the taxpayer actually performs an ongoing original research study in accordance with a specific commission, and that pursuant to a single contract the taxpayer delivers written report(s) to the sponsor(s) of the project. From the facts as we understand them, however, it does not appear that the taxpayer performs custom multi-client studies in which the customers agreed to fund the project's cost. Instead, the taxpayer sells reports, which are based on unfunded or speculative research, to all interested persons.

With regard to taxpayer's claim that it only furnishes nontaxable services to its client, it is our opinion that taxpayer's services are not bargained for under the several subscription contracts, since the amount charged for each subscription does not represent the value of the services required to produce the reports. The real object sought by each buyer is the report itself which has an intrinsic value due to the information it contains. Taxpayer's customers are not purchasing taxpayer's services; instead, they are purchasing the reports produced by the services. Therefore, it is our opinion that the taxpayer is a seller of printed matter and that tax applies to the total fee charged for the reports.

Furthermore, we are of the opinion that both the primary reports and follow-up reports do not qualify as tax exempt "periodicals" under Regulation 1590, since the reports appear to be more like books complete in themselves rather than separate issues of a related publication.

As requested, we are returning to you all volumes and supplemental reports which you provided for our review.

CJG:ba  
Enc.