

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-5550

March 31, 1976

U--- C---, C---, and R---
XXX --- Avenue
--- ---, CA XXXXX

SY --- XX XXXXXX

Attention: Mr. E--- R. K---
Accountant

Gentlemen:

Your letter dated March 21, 1976 and addressed to Mr. Gary Jugum has been referred to the undersigned for reply.

We understand that you are a non-profit corporation formed by eight religious groups to operate camps and retreat facilities. You provide food and housing to members of your eight groups and to other tax-exempt groups. In your operation, if a user signs an agreement for use of your facilities and then cancels, the user is obligated to pay a penalty fee. Similarly, if the number of attendees is smaller than the number specified in the contract, the user is required to pay for 90 percent of the meals specified. You inquire whether these penalty fees are subject to tax.

The sales and use taxes are applied to sales of tangible personal property. The tax does not apply to sales of services nor to sales of tangible personal property as to which the legislature has enacted a specific exemption. We would consider that a charge made by you to a user who cancels or fails to appear as a charge for service or damages since there is not transfer of tangible personal property. However, where your contract provides for the sale of meals at a fixed amount per meal to users and you make a minimum meal charge when the number of attendees is smaller than the number specified in the contract, we would consider the entire amount to be payment for the meals actually served, and tax would apply to this entire charge unless the sale were otherwise exempt.

If you have any further questions, please contact us again.

Very truly yours,

H. L. Cohen
Tax Counsel

HLC:js