

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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(916) 445-2641

March 22, 1985

Mr. J--- M---
C--- R--- S---
XXX South ---
--- ---, CA XXXXX

Dear Mr. M---:

This is in verification of our telephone conversation of March 20, 1985 regarding the application of sales tax to fund raising banquets conducted by the C--- R--- S--- (CRS). As I understand the facts, the CRS contracts with a hotel to provide a banquet room and meals for an agreed upon amount. The hotel will prepare and serve the meals and be paid the agreed amount directly by CRS. CRS will generate revenue for its functions and activities by charging a larger amount to those persons attending the banquet.

Our conversation centered on Revenue and Taxation Code Section 6363.5 (all code references hereinafter are to the Revenue and Taxation Code), which states as follows:

“There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use or other consumption in this state of, meals and food products for human consumption furnished or served by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in furnishing or serving the meals and food products is to obtain revenue for the functions and activities of the organization and the revenue obtained from furnishing or serving the meals and food products is actually used in carrying on such functions and activities.

For the purposes of this section ‘religious organization’ means any organization the property of which is exempt from taxation pursuant to subdivision (f) of Section 3 of Article XIII of the State Constitution.”

I have underlined the last sentence of Section 6363.5 to emphasize that, as we discussed, for the sales tax exemption in Section 6363.5 to apply, the CRS must hold the exemption from property tax in subdivision (f) of Section 3 of Article XIII of the California State Constitution. If the CRS does not hold the California Constitution Article XIII Section 3(f) exemption, but holds some other property tax exemption instead, for instance the broader property tax exemption in Section 214, then the sales tax exemption in Section 6363.5 does not apply to CRS's sales of meals at fund raising banquets. If you are uncertain as to which property tax exemption CRS holds, you should inquire at the Los Angeles County Assessor's office.

Assuming that your inquiry reveals that CRS does in fact hold the property tax exemption in California Constitution Article XIII Section 3(f), under the facts stated above, CRS is the retailer of the meals and, if all other conditions of Section 6363.5 are met, sales tax does not apply to CRS's sale of the meals at the fund raising banquets. The hotel is selling the meals for resale to CRS and CRS should issue a resale certificate to the hotel even though CRS may not be required to hold a seller's permit.

As we also discussed, it is not necessary for CRS's personnel to physically serve the food for the sale tax exemption to apply. But it should be kept in mind that, if a religious organization does not charge its invitees, or charges them only at cost, the purpose of serving the meals is not to raise revenues and the sales tax exemption in Section 6363.5 would not apply.

If your investigation reveals that the sales tax exemption in Section 6363.5 did apply to banquets held in the past, the hotel which paid the sales tax to the Board should file a claim for refund on being supplied with the necessary information by CRS. We shall send a copy of this letter to District Principal Auditor Joseph Cohen of the Board's Hollywood District Office so that he will be aware of our discussions. If you have further questions, feel free to write us.

Very truly yours,

Donald J. Hennessy
Tax Counsel

DJH:rar

cc: Mr. Joseph Cohen