



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 445-3723

December 20, 1982

Mr. A. J--- B---
Assistant Counsel

SR -- XX-XXXXXX
SR -- XX-XXXXXX

Dear Mr. B---:

We have reviewed the information in your letters to me dated October 19, 1982, and November 10, 1982.

Whether C--- must collect certain transit district sales or use taxes in connection with its sales to purchasers within those districts requires an investigation into the nature of C--- and whether its activities within a district are sufficient to require it to collect the district transactions and use taxes. We are not aware of the contractual arrangement between C--- and the S--- B--- C---. Accordingly, we do not know whether these relationships create a joint venture, association, or other group or combination acting as a unit within the meaning of Revenue and Taxation Code Section 6005, which defines "person." This may be important with respect to transit taxes if imposed in some other districts in the state, but we think it is not determinative of the requirement that C--- collect the use taxes of the Santa Clara County, Santa Cruz County, and San Mateo County transit districts.

If we assume that C--- is merely a division of the University of California extension department, then it is a part of the University of California. Article IX, Section 9 of the California Constitution provides in part:

"The University of California shall constitute a public trust, to be administered by the existing corporation known as 'The Regents of the University of California,' with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university...."

Section 6005 of the Revenue and Taxation Code defines "person" for the purposes of the Sales and Use Tax Law as including any trust, association, corporation, this State, or political subdivision of this State, or any other group or combination acting as a unit. The University of California is a "person" within the meaning of that section. Since the University makes sales of tangible personal property, it is a "seller" within the meaning of Section 6014, a "retailer" within the meaning of Section 6015, and thus subject to the sales tax on its retail sales and required to collect the use tax under the provisions of Section 6203.

The provisions of those sections are incorporated into the transactions and use tax ordinances of the various districts as required by Sections 7261 and 7262. However, the provisions of Section 7262 provide that the name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase. Accordingly, a retailer who is not engaged in business in the district is not required to collect the district use tax.

It would seem to be clear that the University of California, since it operates Universities in Santa Cruz and Los Angeles counties, is "engaged in business" in each of those counties. Accordingly the C--- would be required to collect the transit use taxes in those counties.

However, we understand that the C--- regularly conducts classes in Santa Clara County and in San Mateo County where it distributes literature and perhaps accepts orders for materials and books which it furnishes or sells to people within the counties. Thus, C--- is engaged in business in those counties and is required to collect the transit district taxes in each of the transit districts mentioned in your letter of October 19.

If, as you point out in the materials presented with your letter of November 10, the University of California is an "instrumentality of the state" or a "constitutional department or function of state government," or a "statewide administrative agency," it would appear that the University of California is present in all areas of the state and is required to collect the use tax in all of the transit district for that reason.

I realize that the conclusions reached above are contrary to those stated in our telephone conversation of October 18, 1982. However, after receiving your letter of October 19, 1982, I did some research. Please accept my apologies for any inconvenience that this may have caused you.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel