

340.0000 MAILING LISTS AND SERVICES—Regulation 1504

Forwarding agent, mailing agency as, see also Interstate and Foreign Commerce.

340.0015 Address Labels. A taxpayer maintains customer address files for clients. When requested by its clients, the taxpayer prints address labels and delivers them to the clients. A flat monthly charge is made for maintaining and updating files and a separate charge is made for each label printed. On occasion, clients request file printouts for which the taxpayer makes a charge. Tax applies only to the charge for the printouts. They are not regarded as mailing lists under Sales and Use Tax Regulation 1504. Under Regulation 1502, charges for file maintenance and printing address labels are not taxable. 6/9/82.

340.0040 Addressing. The addressing of a reply envelope mailed with other material is nontaxable. However, if the printed envelope is not a reply envelope but in the nature of advertising or other promotional material, the addressing charge is taxable. When a window-addressed card is printed to be used as the address for correspondence mailed to a consumer and the identical address is placed on printed advertising material enclosed in the mailed material, the charge for the window addressing is tax exempt, but the charge for addressing on the advertising material is taxable. 10/6/64; 9/24/86.

340.0060 Addressograph Plates. Where addressograph plates are embossed by a mailing service at the instruction of the client, who is charged for the service per plate, but the title to the plates remains in the mailing service, the embossing service is not taxable. 12/26/63.

340.0070 Birthday Notices—Restaurant. A firm receives registration forms from a restaurant. It enters the data on a disk and sends it to a data processing service bureau which maintains a file of the customers. Each month the service bureau prepares a tape of customers who have birthdays during the month. The tape is sent to a laser printing firm which prints the name and addresses on cards. In some cases a message is added. The charge by the printing firm is the same whether or not a message is added.

The laser printing operation results in a sale by the firm to its customer when the printer prints the names, addresses and a message. Any printing beyond the name and address subjects the entire charge to tax including charges for maintaining the customer's file.

On the other hand, if only the name and address is printed, the transaction is nontaxable as a mailing service. The addition of a salutation (Dear———) would not make the addressing taxable. 3/1/84.

340.0080 Computerized Letters. A company in the business of preparing and mailing computerized letters for clients is the retailer of the envelopes and letters it furnishes. Charges for the programming and proceduring of the computerized letters by a service bureau hired by the company are charges for services in connection with the furnishing of taxable printing and are not excludable from the retailer's gross receipts. Charges for addressing, sealing, and mailing of the letters and postage are tax exempt. 12/15/69.

340.0090 Customer Printout of Mailing Labels. A commercial mailer has received a mailing list from a customer that requires upgrading to zip+4 addressing.

Assuming the commercial mailer is only providing nontaxable mailing services to the customer the upgrading of the zip code to zip+4 is part of the service, and the charge is nontaxable. 11/2/92.

340.0098 Demographic Report. A firm obtains market survey cards completed by its client's customers. It encodes the information and provides the client demographic information about its customers. The information furnished to the client may be printed or on a floppy disk. The contract for these reports is for nontaxable service of processing customer furnished information. 3/30/89.

340.0125 Single Use—What Constitutes. A person buys mailing lists under contracts which prohibit the person from making copies of the lists. Under Sales and Use Tax Regulation 1504, tax does not apply to transfers or uses of mailing lists, use of which is limited by contract to one time only. Thus, normally tax would not apply to the sale to or the use by the person of the lists. Occasionally, however, the person buys two copies of the same list. Since the exclusion from tax is, under the wording of the regulation, based on

the charge for a single use list being regarded as a charge for the service of compiling the list, the sale or use of two copies of the list is taxable. In this case, the net effect is the purchase of a list to be used more than once and, accordingly, tax applies to the sale of the lists. 12/15/80.

(Note: Subsequent statutory change, section 6379.8.)

340.0126 Matching Database. A firm receives a database of customers from its client. It matches the client's data base against its own database. A report is generated which provides additional information to the client about its customer. In some cases, the client requests a mailing list containing the names of persons who closely match the list furnished by the client. The report furnished to the client may be printed or on a floppy disk. The matching of data bases and the reports prepared constitute services. The true object of the contract under Regulation 1501 is a nontaxable service and the firm is the consumer of the disks and paper upon which the data is transmitted. 3/30/89.

340.0127 "Merge/Purge" Computer Service. A company, utilizing an in-house computer system, provides a service to individuals and companies ordering computer magnetic tapes of name lists. The customers order lists of names and addresses on magnetic tape from name brokers who deliver the magnetic tape to this company's facility. The company then runs the magnetic tapes into its computer to eliminate all duplicate names, bad zip codes, etc., and then prints out on computer paper all the unduplicated names. The customers are sent the computer printout with a one time use restriction. All of the contracts have a one time use restriction regardless of what form the list is in. The original magnetic tapes are sent back to the name broker after which they are erased and reused for another purpose. The company has no way of knowing whether any tax was paid and/or owed by the name broker.

When magnetic tapes are leased from a list owner by the customer for the purpose of sending the tape to this company for the merge/purge operation, use tax applies to the list owner's lease of the tape. The customer is liable for this tax which should be paid by the customer either to the list owner holding a permit or directly to the Board.

As to this company's activities which consist of only the merge/purge program and the transfer of a computer printout or set of labels to the customer, for a one time use only as a mailing list, tax does not apply to the charge made to the customer for the merge/purge program. Multiple copies of mailing labels are subject to tax. If the company supplies the customer with a new magnetic tape containing purged names and addresses, tax applies to the sale of the magnetic tape also. 9/4/80.

(Note: Subsequent statutory changes re sales of mailing list on magnetic tape.)

340.0129 Number of Uses. As part of the operation of a consulting business, lists of certain names associated with the investment community are provided to the business' clients. The lists are provided to clients in three formats: pressure sensitive labels, cheshire labels, and magnetic tape. The lists are updated periodically and should a client request a list every two months, each list would contain some different names and addresses. A typical agreement entitles the customer to up to six updated, individualized, and custom designed sets of labels during any contract year. The above typical agreement does not restrict the use of the lists to one use. Rather, the client is entitled to six sets of labels during each contract year. There is nothing in the contract which would restrict a client from receiving the six sets of labels at one time. While this clearly would not be practical, it would be possible. Regulation 1504(a)(3) provides that tax will not apply if the contract restricts the transferee to a one time use of the mailing list. Since the contract does not restrict it to a one time use, the agreement is subject to tax. The fact that some of the names may be deleted and others added will not affect this conclusion since the contract clearly does not restrict the use of the mailing list to only one time. 12/16/80.

340.0131 One-Time Use. The deduction for the one time use of a mailing list is not lost if the purchaser later reorders the same list for subsequent mailing. The lists are licensed under separate agreements and the lists are dynamic and may change from one transaction to the next, giving effect to additions or deletions. 6/28/91.

340.0135 **Out-of-State Storage.** A California retailer sells and leases mailing lists on magnetic tape to California customers. The tapes are shipped from out-of-state storage locations directly to the customers in California. Since the sales do not take place in California, the use tax rather than the sales tax applies. The seller is engaged in business in California and is therefore required to collect the use tax from the buyer or lessee.

If the seller uses an agent to contract for the sales and leases, the agent will be liable for collecting the use tax only if it is acting on its own behalf. If it is acting as a true agent, the seller will be liable for collection of the use tax. 10/10/89.

(Note: Subsequent statutory change re mailing lists.)

[340.0140](#) **Preliminary Mailing Services.** A mailing house which performs preliminary mailing services such as the collating of materials, the folding of Christmas cards, as well as the stuffing of these materials into envelopes, and then turns over the finished product to another mailing house for mailing, is the consumer and not the retailer of the tangible personal property it uses in these preliminary services. Thus, charges for these services are not includable in the total measure of the tax. 9/1/66.

[340.0146](#) **Printing Mailing Labels.** A firm prints and distributes newsletters for its customers. As part of the function, it purchases mailing lists. The contracts for printing the newsletters calls for anywhere from two to twelve issues with the average being four. Since the mailing list is used during the entire life of the contract, it appears that it is not purchased for a one-time use. Under these circumstances, tax applies to the sale of the mailing list to the firm. 5/20/97.

[340.0148](#) **Processor of Credit Card Transactions.** A processor of credit card transactions contracts with banks and airlines to process their credit card transactions. The processor receives charge account sales documents or tapes reflecting the transactions and enters the information from those documents in its computer system. The resulting charge account statements are mailed out. The processor's charges and their tax applications are set forth below.

(1) The credit card company (e.g., Visa, Mastercard) distributes lists (hard copy) of bad card numbers to merchants. The credit card company bills the credit card processor who in turn bills its customers with a mark-up.

Charges for these lists of bad card numbers are either taxable as sales of additional copies of records or tabulations pursuant to Regulation 1502(d)(5)(F) or taxable as printed matter under Regulation 1541(a), depending upon further facts.

(2) A charge is made to the credit card processor's customers for a mailer sent to credit card holders notifying them that their credit cards have been mailed.

Charges for notices sent to cardholders are for sales of printed matter and are taxable. Charges for services rendered in preparing material for mailing are, however, nontaxable pursuant to Regulation 1504(c). The charge for the printed matter should be separately stated from the charges for mailing services. 5/22/84.

340.0160 **Rental of Mailing Lists.** By agreement, an out-of-state society appoints a company to act as a "list manager" for a mailing list. Under the contract, the duty of the list manager is to promote the rental of names and to bear all expenses for that promotion and sales effort. For compensation, the list manager retains 30% of the gross rental price.

Based on this information, the society is the lessor of the lists and the list manager merely acts as an agent on behalf of the society in managing the mailing list. Accordingly, the society is the retailer responsible for collecting California use tax from the lessee. 5/6/92.

340.0170 **Rentals of Mailing Lists.** A contract states that a company may provide a mailing list to a proposed direct mail user only if approved in writing by an officer of the list owner and for the purpose and

in the manner set forth in the proposal. The company agrees that, if the list owner does not approve the use, the company will not use the mailing list in accordance with the proposal or otherwise. The company agrees that it will provide the list to a direct mail user only in accordance with a written agreement between the company and the direct mail user, which in form and substance has been approved in writing by the list owner. The company shall not, in any way, bind or incur obligations on behalf of the list owner without the express written approval of the list owner. The company keeps a percentage of the rental receipts for its service and the remainder (called royalties on the books) goes to the list owner as rental income belonging to the list owner for rental of its property.

The company is acting as a list broker or agent for the rental of these mailing lists. The provisions of the agreement indicate that, while the company has possession of the mailing lists and the company transfers the lists to the customers, the lists will not be rented until the list owner has approved the transaction. It is the list owner, not the company, who is making a taxable rental of the mailing lists. The amount subject to tax includes the total amount paid by the customer including the amount designated as a royalty. 10/18/88.