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July 1, 1991

Ms. N--- V---
Associate
--- & ---
XXX --- ---
--- ---, CA XXXXX

Re: B--- B---B---, Inc.
S- -- XX-XXXXXX

Dear Ms. V---:

This is in response to your letter of June 25, 1991, which was received in this office on June 28, 1991.

It has come to your attention that your client, B--- B--- B---, Inc., has been paying sales tax with respect to certain transactions occurring at its facility.

We understand that school children tour the manufacturing facility. The tour price is \$8.00 per child or \$2.00 per child. The children experience the process of "bear birthing" from start to finish. They see a bear cut out, sewn up, and eyes attached. The child then stuffs the small bear and is allowed to keep it. Children who receive the bear pay \$8.00.

For very small children or others who do not wish a bear, the price is \$2.00, and they receive a small mouse.

Neither the mouse nor the small bear is otherwise available on a retail basis.

Your client has been paying tax on these transactions, and our San Francisco office informed you that the price of \$8.00 or \$2.00 is not subject to tax.

Your client is correct. The transactions in question are retail sales transactions subject to sales tax at the \$8.00 price or the \$2.00 price, depending whether the child receives a bear or a mouse. It is immaterial that the items sold are sold at the site of the manufacturer, are sold only to persons taking the tour, or that the child participates in making the bear or mouse. The transactions in question are taxable, and your client should continue to pay tax, as it had previously.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr