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June 24, 1996

Mr. V--- R. F---, Counsel  
O--- C--- Department of Education  
S--- L--- Service  
XXX --- Drive  
P.O. Box XXXXX  
--- ---, CA XXXXX-XXXX

Dear Mr. F---:

This is in response to your letter of June 10, 1996.

We understand that your office provides legal services to O--- C--- public educational agencies, including the O--- C--- Department of Education (“Department”). A sales tax question has arisen in connection with the Department’s purchase of textbooks from an educational publisher. You have sought our opinion as to whether sales tax applies to certain transportation-related charges.

The Department purchases textbooks directly from a publisher as part of a statewide bid process administered by the California Department of Education. The publisher’s bid price is a unit price, which includes the cost of the textbook and what you describe as “the estimated cost of transportation.” We take this to mean that the bid price is a delivered price. That is, the price includes transportation to the purchaser, without regard to what the actual cost of transportation may be to the publisher.

The Department orders the books directly from the publisher which ships the books directly to the Department by means of a commercial carrier.

You have furnished us with a sample invoice for textbooks ordered from the publisher. The invoice includes a separately stated amount identified as transportation. However, the published has represented to the Department that the stated transportation costs are not the actual costs of transportation, but are only stated for the publisher’s own internal accounting purposes. You note that the invoiced amount is based upon the extended net cost of the books (\$2298.35) when added to the estimated transportation (\$151.70) is approximately equal to the total invoice price (\$1640.20), the difference is \$.26.

You are correct that ordinarily separately stated transportation charges are nontaxable, where delivery is made by commercial carrier. However, since the goods are sold for a delivered price (and assuming that title passes upon shipment), Revenue and Taxation Code section 6012 provides that such charges are nontaxable only if the separately stated transportation charged do not exceed the cost to the retailer of actual transportation.

It has been our understanding that publishers do not track actual transportation. In cases of the type in question they base their bid price upon the total cost to be incurred in shipping the textbooks to customers in this state. They may allocate some portion of this cost to individual invoices, for internal bookkeeping purposes. It is our view that the charges in question are properly subject to tax. With respect to the invoice in question, tax was properly computed on the "estimated transportation."

Very truly yours,

Gary J. Jugum  
Assistant Chief Counsel

GJJ:sr