



STATE BOARD OF EQUALIZATION

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001
TELEPHONE (916) 445-6493

August 19, 1988

Mr. S--- B. H---, Jr.
President
S--- H---, Inc.
XXX --- ---
---, Massachusetts XXXXX

S--- H---, Inc. (no permit number)
News releases and copy writing

Dear Mr. H---:

In your July 11, 1988 letter to the Board's legal staff, you write that when you applied for a seller's permit for your company's new branch office at the Board's San Jose office, Ms. Cynthia E. Guest, Senior Tax Representative, indicated she felt you did not need a permit for your activities, but she suggested you write us for a legal opinion on this matter. You write:

"We are a [city], Massachusetts-based public relations firm specializing in high technology. Our California branch office opened June 1, 1988 and is based in [city 2]. Our primary business is providing consultative advice. We develop communication strategies, write plans and budgets for our clients, and offer them our suggestions. From time to time, we write news releases, and will send these news releases over news wire services or in hard copy form to trade and business publications. We do not do any form of advertising work for our clients, nor do we perform artwork and printing for brochures. From time to time, however, we will write the words for a brochure. We will also from time to time hire a photographer to take snapshots of a client in case we need a photograph for a news release."

Opinion

We agree with Ms. Guest that you do not need a seller's permit to engage in the type of activities you described in your letter. A seller's permit is required of any person who engages in the business of selling or leasing tangible personal property of a kind which is subject to sales or use tax. (Revenue and Taxation Code Sections 6014, 6066). However, persons who provide

nontaxable services (i.e., services which are not a part of the sale or lease of tangible personal property) are not required to hold seller's permits. The writing and distribution of news releases on behalf of your clients is a service, not a sale. Likewise, your writing words for inclusion in a brochure is a nontaxable service, assuming that you are not the seller of the brochure. (Regulation 1540(b)(4)(E)). With respect to the photographs, tax applies to the photographer's sale to you of the photographs which you use in preparing news releases for your clients, assuming you do not resell the photographs to your clients.

I enclose a copy of Regulation 1540 for your information. Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott
Tax Counsel

JA:jb
Enclosure