



STATE BOARD OF EQUALIZATION

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Controller, Sacramento

May 7, 1996

BURTON W. OLIVER
Executive Director

Mr. P--- W. M---
---, --- & ---
XXX --- ---, --- ---
--- ---, California XXXXX

Re: --- --- --- ---

Dear Mr. M---:

This is in response to your letter dated February 14, 1996 regarding the --- --- --- --- ("the Agency").

You previously wrote to us on November 28, 1995 regarding the application of tax to transportation charges for newspaper deliveries imposed by one of the newspaper publishers your firm represents. You did not provide us with the name of your client at that time. Our January 11, 1996 response to your November 28, 1995 letter stated that our response did not come within the provisions of Revenue and Taxation Code section 6596 since your letter to us did not identify the taxpayer subject to your opinion request. Your February 14, 1996 letter now identifies the taxpayer in your previous letter as the Agency. You state that it is your understanding that having identified the Agency in your February 14, 1996 letter, the Agency may now rely on written advice "it has received and will receive from the Board in response to past and present inquiries."

Your understanding is incorrect. Each time a person writes us to ask a question, we consider the question and provide the necessary analysis. Even if we had just written to the person as an unidentified taxpayer and then the identical request comes in identifying the taxpayer, that second request must be processed as a new opinion request. This means that letters falling within the parameters of Revenue and Taxation Code section 6596 are never "retroactive" to the date of any other correspondence. Thus, the Agency (or any other taxpayer

for that matter) may not rely on previous correspondence from us to an unidentified taxpayer even if the factual situation in the letter to the unidentified taxpayer is identical to the situation of the Agency. If the Agency would like an opinion from the Legal Division subject to the provisions of Revenue and Taxation Code section 6596, you should provide us with a written request to do so and identify all relevant facts surrounding the transaction. We do not regard your February 14, 1996 letter as such a request.

You ask that a meeting be scheduled to discuss some of the Agency's concerns regarding transportation costs. I have forwarded your letter (and the Legal Division's previous correspondence to you on this topic) to the Audit Evaluation and Planning Section. They will contact you if such a meeting is possible.

If you would like a section 6596 letter regarding the Agency, please provide us with a written request. If you have any other questions, please write again.

Sincerely,

Warren L. Astleford
Staff Counsel

WLA:rz

cc: Mr. Glenn A. Bystrom, MIC: 43
--- --- District Administrator - (--)