



STATE BOARD OF EQUALIZATION

April 9, 1968

Dear Mrs. ---:

Thank you for your March 21 letter which contains additional information in regard to the operation of your mail order business.

We understand that you use a California mailing address as a part of this business. Mail is directed to you at the California address and then forwarded to you at your Oregon address. Additionally, you send your mail to the California address and it is remailed from there to your addressees. Receiving and remailing correspondence is the only function your mailer at the California address performs. Any shipment of merchandise to California customers is made by the supplier, as you advertise only merchandise that is drop-shipped.

As we have previously informed you, California sales tax will not apply to the gross receipts received from your sales under such circumstances. Since your mailer is only receiving and remailing correspondence, neither will he be required to pay sales tax pursuant to the provisions of Sales and Use Tax Law Section 6007.

However, in our opinion you are responsible for the collection of California use tax on your sales to California customers. Every retailer engaged in business in California is required to collect use tax, whenever applicable, from the consumer at the time of making the sale. Section 6203 provides in part:

“Retailer engaged in business in this state’... means and includes any of the following:

* * *

“(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.”

We think that your mailer is a representative or agent taking orders within the meaning of this section. Orders are directed to and are received at the California address by your mailer on your behalf. The use of the California address in your classified and space advertising in magazines, and on your proposed catalogs and on labels affixed to merchandise would suggest to customers that they are placing their orders and doing business with a retailer engaged in business in this state. Thus, if you are selling tangible personal property, you are a retailer engaged in business in California for purposes of Sales and Use Tax Law.

We enclose a copy of California Sales and Use Tax Law for your information. As a retailer selling tangible personal property for storage, use, or other consumption in California, you are required to register with this Board pursuant to the provisions of Section 6226. We also enclose an application for a certificate of authority to collect use tax. There is no fee, bond or deposit required for the issuance of this certificate. When completed, the application should be returned to this Board.

Very truly yours,

H. F. Freeman
Executive Secretary

by J. Kenneth McManigal (JKM) (Staff Attorney) for the Executive Director's [sic] signature. SPJ 6/28/02
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JKM:HFF:smk [lb]