

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)
(916) 324-8208

November 15, 1991

Mr. I--- L---
L--- T--- F--- of C---
X --- Road
--- ---, California XXXXX

Re: Application of Sales Tax to Packing Charges and
Government Inspection Costs
SR --- XX-XXXXXX

Dear Mr. L---:

I have been requested to respond to your letters dated May 28, 1991 and August 12, 1991, concerning the application of sales tax to packing charges and government inspection costs. From your letter and other information in our file, it appears that the following are the pertinent facts.

Your business, L--- T--- F--- of C---, a California partnership, sells tree seedlings, live Christmas trees, and container trees. On your sales and use tax returns, you have been deducting the costs of certain items which you describe as follows:

“UPS PACKING:

UPS packing charge is used for those specific shipments which the client directs us to ship via United Parcel Service. Since our products are tree seedlings that need to be protected from the bruising and other mechanical damage that occur during common carrier handling, we pack these shipments specially, and this additional labor cost is charged specifically to the orders which require this service.

“GOVERNMENT INSPECTIONS:

This is an Agricultural Quarantine Compliance Inspection Certificate, or Phytosanitary Inspection Certificate, which is required by law for specific interstate or international shipments, and therefore needs to be charged to the specific shipment for which it pertains.”

Revenue and Taxation Code section 6051 imposes a sales tax on all retailers measured by their gross receipts from retail sales of tangible personal property. "Gross receipts" mean the total amount of the sale price of the retail sales of retailers, valued in money, without any deduction on account of materials used, labor or service costs, or any other expense. Rev. & Tax. Code § 6012(a)(2). Gross receipts also includes transportation charges unless the requirements of Revenue and Taxation Code section 6012(c)(7) are met. Rev. & Tax. Code § 6012(a)(3).

Under the Sales and Use Tax Regulations, excludable transportation charges do not include handling charges, i.e., the costs for labor and materials used to package an item before it is transported. Regulation 1628(a). Since your UPS packing charges are handling charges which are nondeductible labor costs, these charges must be included in the measure of tax.

There is no statute which excludes government inspection costs from the measure of tax or permits a deduction for such costs. Therefore, under Revenue and Taxation Code section 6012(a)(2) such costs are a nondeductible expense.

If you have further questions regarding sales and use tax law, please do not hesitate to write again.

Sincerely,

Elizabeth Abreu
Tax Counsel

EA:cl

bc: --- District Administrator
Mr. Eric Elberg, Return Review Section