



STATE BOARD OF EQUALIZATION

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August 8, 1996

Mr. C--- M---
Credit Manager
D--- C---
XXXX --- Way
--- ---, California XXXXX

Re: Account No. SR -- XX-XXXXXX

Dear Mr. M---:

This responds to your letter dated June 20 regarding the application of sales tax to your charges for brochures.

In your letter, you state that:

“We have printed brochures for our client, H--- L--- Industries, and shipped them to H--- L--- here in California. They have been taxed at the appropriate rate. H--- L--- Ind. has notified us that they are shipping half of the brochures which are printed in German to Germany, therefore they should not be taxed.

“After researching regulation 1620, I have informed them that since they ‘touched’ the product, it is taxable. If we had sent the ‘German’ brochures to an exporter or shipped them to Germany, then they would be non-taxable.

“If there is another regulation we are not aware of, please inform us.”

We agree with your conclusion that sales tax applies to your sale of the brochures in this state. As you are aware, the retail sale of tangible personal property in this state is subject to sales tax. (Rev. & Tax. Code § 6051.) Tax does not apply, however, if the sale is specifically exempt from tax by statute.

The sale to H--- L--- Industries of printed brochures that they intend to export to Germany is a retail sale in California. The sale does not qualify for the export exemption in Regulation 1620. As explained in subdivision (a)(3)(C)(1) of Regulation 1620, "sales tax applies when the property is delivered to the purchaser or the purchaser's representative prior to an irrevocable commitment of the property into the process of exportation. It is immaterial that the disclosed or undisclosed intention of the purchaser is to ship or deliver the property to a foreign country or that the property is actually transported to a foreign country." Here, the brochures were delivered to H--- L--- Industries in California. The sale was complete at that time, before the entry of the brochures into the stream of export. Sales tax applies.

However, the application of the export exemption to sales tax would have been different if you had mailed or shipped the brochures by carrier to Germany. As subdivision (a)(3)(D)(2) of Regulation 1620 explains, "Sales tax does not apply when the property is sold to a purchaser for shipment abroad and is shipped or delivered by the retailer to the foreign country." Had you sent the brochures to Germany by carrier, whether hired by you or H--- L--- Industries, the transaction would qualify for the export exemption.

I hope this discussion has answered your questions. If you need anything further, please do not hesitate to write again.

Very truly yours,

Robert E. Thomas
Tax Counsel

RET/cmm
Enclosure (Reg. 1620)