



STATE BOARD OF EQUALIZATION

LEGAL DIVISION (MIC:82)
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May 24, 1994

BURTON W. OLIVER
Executive Director

Mr. M--- H. S---
S--- E---
XXXX --- Avenue
---, CA XXXXX

Re: S E---
SX -- XX-XXXXXX

Dear Mr. S---:

This is in response to your letter dated April 11, 1994 regarding discussions you have had with our --- District office. You have discussed record keeping requirements with our district office, and based on those conversations you have concluded that a person conducting fund raising through sales of tangible personal property must collect its revenues through a cash register in order to provide a legitimate record of sales in case that person is ever audited. You state further:

“Along with the tape register the establishment should also be prepared to provide any print advertising (i.e. newspaper ads, flyers, etc.) that would further establish the event did in fact occur.

“In addition the register should be programmed so that taxable sales (i.e. beverages, ice cream consumed at inside or outside tables) are recorded accurately and the taxable amount is appropriately paid to the state board of equalization.

“It was your --- office’s opinion that to not receive money through the cash register would be careless and could present future problems.”

Discussion

The two basic answers to your query are: 1) no, you are not required to collect your gross receipts through a cash register; and 2) it is, however, a good idea to do so.

Retailers of tangible personal property are liable for sales tax measured by the gross receipts from their retail sales in California. (Rev. & Tax. Code § 6051.) All of a retailer's receipts are presumed to be subject to sales tax until the retailer establishes otherwise. (Rev. & Tax. Code § 6091.) Further, a retailer is required to keep such records, receipts, invoices, and other pertinent papers in such form as the Board may require. (Rev. & Tax. Code § 7053.) The Board has adopted Regulation 1698 to set forth what records are required:

“(a) GENERAL. Every seller, retailer, and person storing, using or otherwise consuming in this state tangible personal property purchased from a retailer, and every lessor and lessee of tangible personal property for use in this state, shall keep adequate and complete records showing:

“(1) Gross receipts from sales or rental payments from leases of tangible personal property (including any services that are a part of the sale or lease) made within California irrespective of whether the seller or lessor regards the receipts as taxable or nontaxable.

“(2) All deductions allowed by law and claimed in filing returns.

“(3) Total purchase price of all tangible personal property purchased for sale or consumption or lease in California.

“These records must include the normal books of account ordinarily maintained by the average prudent businessman engaged in the activity in question, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns.

“....

“(d) RECORDS RETENTION. All records pertaining to transactions involving sales or use tax liability must be preserved for a period of not less than four years unless the State Board of Equalization authorizes in writing their destruction within a lesser period.

“(e) EXAMINATION OF RECORDS. All of the above-described records must be made available for examination on request by the board or its authorized representatives.

“(f) FAILURE TO MAINTAIN RECORDS. Failure to maintain and keep complete and accurate records will be considered evidence of negligence or intent to evade the tax and may result in penalties or other appropriate administrative action.”

Thus, although use of a cash register is not absolutely required if not ordinarily maintained by the average prudent businessperson engaged in the activity in question, it is of great assistance in obtaining, and retaining, adequate records. If you do not utilize a cash register, you must, nevertheless, devise a bookkeeping system which will allow you to obtain, and retain, records of your purchases and sales that are sufficient to establish the exact amounts of each. While failure to use a cash register is not necessarily indicative of carelessness if not used by the average prudent businessperson engaged in that type of business provided the retailer has an adequate alternate bookkeeping method, such failure could certainly present some future problems. If you choose not to use a cash register to record your sales, I encourage you to discuss your proposed alternate method with the --- District office.

If you have further questions, feel free to write again.

Sincerely,

David H. Levine
Supervising Staff Counsel

DHL:cl

cc: --- District Administrator