



STATE BOARD OF EQUALIZATION

916-445-5550

March 3, 1989

X-----

X-----:

This is in response to your letter dated January 27, 1989 regarding the application of sales tax to a transaction between you and X-----.

You performed work for X----- . From the nature of your inquiry, I assume this involved a sale of glass occurring in California. You state that X----- - has you send your bills to X----- in Chicago. Your invoice, however, lists "To: X-----" in printing on a form apparently provided by X----- . X----- ---- provided you a photocopy of a CERTIFICATE OF RESALE – Blanket Form listing X----- as the purchaser. The date and your company name, listed as vendor, is included in original writing, but everything else, including the signature, is photocopied. You ask whether this relieves you of liability for sales tax.

You have not fully described your transactions; however, it appears that X----- ----- ordered certain work to be done that involved your sale of tangible personal property. In response to X-----'s order, you performed the work and sent an invoice to X----- apparently in care of X----- . Based on these facts, we conclude that your contract is with X----- and your sale of tangible personal property is to X----- . Since X----- did not provide you with a timely and valid resale certificate listing itself as the purchaser, your sale to X----- is presumed to be at retail and subject to sales tax. (Rev. & Tax. Code § 6091)

The resale certificate provided to you by X----- does not relieve you of sales tax liability for two reasons. Based on our conclusion discussed above, X----- ---- (listed on the resale certificate) X----- with seller's permit X----- is not your purchaser, but rather appears to be a billing for X----- . Since X----- ---- did not purchase the property from you, its resale certificate cannot serve to relieve you of liability for sales tax on a sale to X----- . We also note that a valid resale certificate must contain the signature of the purchaser or an agent or employee of the purchaser. (Reg. 1668(b)(1)(A).) This signature must be an original and not a photocopy.

In summary, based upon the information presented to us we conclude that your sales to X----- were at retail and subject to sales tax. If there are additional facts about your sales that you wish us to consider or if you have further questions, feel free to write again.

Sincerely,

David H. Levine

Tax Counsel

DHL/smt