



490.0400

STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

June 24, 1957

Dear Mr. REDACTED TEXT:

This is in reply to your letter of June 10 in which you stated that you purchased some paint upon which you paid sales tax reimbursement. You returned the portion of paint which you did not use and the store refused to credit you with the amount of sales tax reimbursement applicable to the price of the returned paint.

For your information, the Sales Tax Law (copy enclosed) provides that sales tax must be paid to the State by the retailer of taxable goods, and he is to reimburse himself from the purchaser. The tax is not on the purchaser, but rather, the amount paid as sales tax reimbursement is considered to be part of the purchase price.

Ruling 64 (copy enclosed) explains the provisions of Section 6012 of the Sales and Use Tax Law. It provides that a retailer is not taxable on the amount charged for merchandise returned by customers, if the full sale price, including the part designated as "sales tax", is refunded in cash or credit and if the customer is not required to purchase other property at a price greater than the amount charged for the returned goods.

It would appear that if your purchase and return of merchandise comes within the terms of Section 6012 that the seller, if he refunds to you the amount collect as tax reimbursement, may exclude from the measure of his tax liability the sale price of the returned merchandise. Accordingly, you would probably receive from him a refund of sales tax reimbursement paid on account of such merchandise.

If there is any overpayment of tax to the State, the seller may file a claim for refund. There is no provision for a purchaser to file such claim. Therefore, the proper party from whom to seek a credit or refund is the seller, not the Board of Equalization.

Very truly yours,

E. H. Stetson
Tax Counsel

GAT:rc

Enclosures

cc: San Bernardino – Compliance