



STATE BOARD OF EQUALIZATION

January 28, 1970

Gentlemen:

This is in reply to your letter dated January 20 concerning the application of tax in the case of a disposal of business forms warehoused for "S".

You state that you warehouse these forms at one of your California warehouse locations. The forms are the property of "S", and it pays you for them at the time they are shipped to the warehouse. "S" makes withdrawals of the forms as needed.

Recently, "S" advised you that a quantity of one of its forms is obsolete and of no value to it, and it withdrew them for disposal. Thereafter, "S" requested that the California sales tax reimbursement billed to it at the time of purchase be credited to it. Since the sales tax reimbursement billed has been remitted to the Board, you ask if there is any basis under which you or "S" might receive such a credit from the Board.

We assume that "S" purchased these forms for its own use rather than for resale. Thus, at the time you sold these forms to "S", sales tax was applicable pursuant to Section 6051. As the incidence of tax attached at the time of sale, it can only be removed by means of a deduction authorized by the Sales and Use Tax Law. As the law makes no provision for a deduction from tax as the result of a voluntary disposal of tangible personal property subsequent to the incidence of tax, there is no basis under which you or "S" may receive a credit from the Board as a result of "S"'s disposal of its forms.

Ruling 64, Returned Merchandise, copy enclosed, does provide a deduction from tax where merchandise is returned by a purchaser if the conditions set forth therein have been met. However, we do not understand that you are prepared to refund the full sales price of these forms, and in any event, we have taken the position that the voluntary disposal of tangible personal property by a purchaser does not constitute a return of that property to the seller for purposes of Ruling 64.

Ruling 64 is now included in Regulation 1655, a copy of which is also enclosed for your information.

Very truly yours,

J. Kenneth McManigal
Tax Counsel

JKM:smb [lb]