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**STATE BOARD OF EQUALIZATION**

October 17, 1966

Dear Mrs. REDACTED TEXT,

This is to inform you of our conclusions with respect to your petitioner for redetermination of sales tax. It is our recommendation that an allowance be made where you rent heavy equipment such as tents and awnings for your customers as an accommodation and separately bill them on your invoices. With this adjustment, we are recommending the tax be redetermined.

Sales and use taxes ruling 53(e) provides in part that,

“Tax applies to the entire charges made by caterers for serving meals, food, and drinks, inclusive of charges for food, the use of dishes, silverware, glasses, chairs, tables, etc., used in connection with serving meals, and for the labor or serving the meals.”

Such items as tents and awnings do not come within the items listed in this sentence. “Etc.” must be construed to mean items of a similar nature as the other items listed. Where you rent items listed in the sentence, however, tax applies to charges made for them.

At the hearing, you also raised other questions concerning the application of tax to your business. One of these was the taxability of renting dishes or glasses where you do not provide the food products to be served on or in them. Such rentals are not subject to tax provided that you neither furnish the food nor serve the food. In such cases, you must clearly segregate such charges in your records so that our auditors can identify them.

You also raised the questions about personnel such as bartenders, waitresses, and cooks which you hire to cater a meal. You state that these personnel have been determined by the Department of Employment to be independent contractors rather than employees. We believe their status as independent employees is not sufficient to exempt charges you make for their service in connection with serving meals. The quoted portion of ruling 53 provides that tax applies to the entire charges made by caterers for serving meals. This is inclusive of charges “for the labor of serving the meals.” So long as you bill your customers for the labor, they form a part of your gross receipts.

Our auditors will make the adjustment explained above and will inform you of its amount. It will then be presented to the board with our recommendation for their consideration. You will receive official notice of its action in due course.

Very truly yours,

John H. Knowles  
Associate Tax Counsel

JHK:ab

cc: Los Angeles District – District Administrator  
West Los Angeles – Subdistrict Administrator

Attached are two copies of hearing officer's report dated October 11, 1966, which has been approved. This hearing was held in Hollywood on July 18, 1966.