



STATE BOARD OF EQUALIZATION

November 17, 1966

S---, R--- and Company
XXXX East --- Boulevard
--- --- XX, California

Attention: Mr. C--- K---
Manager
Tax Department

SY -- XX XXXXXX

Gentlemen:

Our attention has been called to the fact that since June 1962, S--- has been excluding from the amount upon which sales tax is computed, delivery charges on catalog store order sales. These are charges for delivering merchandise from S---' mail order facilities in --- --- to S---' retail stores at which customers place catalog orders and pick up their purchases.

As you know, sales and use tax ruling 58 was amended, effective July 3, 1962, to provide that tax does not apply to separately stated charges for transportation of property when the property is delivered by independent contract or common carrier, or when title passes to the purchaser prior to the transportation, provided the charge is for "transportation of property from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser." This change in the ruling was made in conformity with the change made in §§ 6011 and 6012 of the Sales and Use Tax Law, effective July 3, 1962.

If it is S---' contention that delivery from its mail order facilities in --- --- to its retail stores constitutes delivery "from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser," we respectfully disagree with this interpretation. Delivery from one facility to another facility of the retailer does not, in our opinion, constitute delivery "from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser." (Underscoring added.)

Even if, which we do not concede, the ruling could be construed so as to include delivery from the mail order facility to the retail store, it seems clear that such a construction could not be supported by the statute, which uses the language, "transported from the retailer's place of business or other point from which shipment is made directly to the purchaser." It seems evident that the different language of the ruling was intended to cover a situation in which a purchaser directs the seller to ship to a specific place, e.g., the address of a donee or other third party, jobsite or other

location at which possession and control of the property will pass from the retailer to the purchaser or his representative.

This, in our opinion, is an interpretation compatible with the language of the statute, as well as the ruling. We do not think that delivery from one facility of the retailer to another facility of the retailer is compatible with either the statute or a proper interpretation of the ruling.

Very truly yours,

E. H. Stetson
Tax Counsel

EHS:fb

bcc: Mr. W. T. Denny
Mr. H. A. Dickson
--- -- Subdistrict Administrator
--- --- District -- District Administrator