



STATE BOARD OF EQUALIZATION

March 26, 1990

P--- L--- Truck Co.
XXXX E. --- Boulevard
--- ---, CA XXXXX

XX-XXXXXX
-- XXXXX

Attention: Mr. O. A. T---

Gentlemen:

This is in reply to your letter of June 17 in which you request a letter ruling from this office on the applicability of the sales tax to transportation charges in various situations you have encountered.

The first problem involves your sales of Y--- lift trucks as dealer for the Y--- & T--- M--- Company. Since you do not fabricate lift trucks on the West Coast, all the units are shipped from ---, Pennsylvania. Your question is whether you should charge sales tax to your customers on the freight from --- to Los Angeles, your place of business. When a customer orders a truck from you, you must supply it in one of the following ways:

- (1) from your local stock if you have one available;
- (2) by ordering it from ---, having it brought into your stock, and then shipping the unit to the customer; or
- (3) by ordering the unit from --- and having it shipped directly to your customer.

When quoting a customer on a truck that he is interested in buying, you generally quote it f.o.b. --- and show the freight charges separately. Because you quote your customers f.o.b. ---, they usually state f.o.b. --- on their purchase orders.

We cannot state the applicable rules more precisely than did our Pasadena office, and we endorse and repeat their explanation.

In the first method of delivery, where you deliver the equipment from your local stock, the retail sales price on which the tax would be measured would be the total amount for which the property is sold without any deduction for the cost of transportation of the property from --- to your yard. Separately stated transportation charges not exceeding your cost from your place of business to your customer's delivery point will be exempt from the sales tax where shipment is made by facilities other than your own or by your own facilities if title passes prior to delivery as clearly expressed in writing.

In the second method, where the equipment is delivered to your yard from --- and then reshipped to your retail customer, the tax would apply, as in the first example, on the total amount for which the property is sold without any deduction for the cost of transportation of the property from the --- manufacturer to your yard. Again, separately stated charges for transportation from your place of business to your customer's delivery point will be exempt where shipment is made by facilities other than your own or by your own facilities if title passes prior to delivery as clearly expressed in writing.

In the third method, where you take the order but the equipment is shipped directly to your customer's delivery point from the --- manufacturer, the taxable sales price will not include separately stated transportation charges. The exclusion must not exceed the cost to you of the freight charges made by the carrier.

Your second problem involves the taxability of freight charges on incoming freight on parts which you order for a specific customer. Those parts are shipped from the manufacturer either (1) directly to the customer, or (2) to you and then to the customer. In either situation, the manufacturer charges you for the freight. In (1), a customer is not charged sales tax on freight; in (2), sales tax is charged on incoming freight.

You are entirely correct in your application of the tax in these situations. The applicability of the sales tax to freight charges on parts specifically ordered for a customer is the same as for completed units ordered specifically for a customer.

The third problem arises when you ship customers' parts back to Y--- & T--- M--- Company in --- for repair work. The parts are repaired, and Y--- & T--- M--- Company ships the repaired parts back to you. Freight charges both ways are charged to your customer and you have charged a sales tax measured by that whole amount.

It would appear, however, that the delivery charges are not subject to tax because the item being repaired is at all times owned by your customer. The replacement or repair parts which are supplied in connection with the repair work are sold at the time they are placed in the item being repaired. Title passes as the items are installed under the doctrine of accession, and, therefore, the delivery of the repair parts is not subject to sales tax as title has passed before delivery.

Since title to the repair parts passes out of state, the 4 per cent use tax would apply to purchases. The use tax would be measured by the sales price of the parts so supplied.

For your convenience, we are sending you an extra copy of this letter. If you have any further questions, please do not hesitate to write to us again.

Very truly yours,

E. H. Stetson
Tax Counsel

By _____
Philip Dougherty

PRD:o'b
Enc.

cc: --- – Subdistrict Administrator