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**STATE BOARD OF EQUALIZATION**

February 23, 1966

M--- E--- Company  
XXXX --- Avenue  
--- ---, CA XXXXX

Attention: Mr. D. W. P---

SR -- XX XXXXXX

Gentlemen:

This is in reply to your letter of February 7, 1966, in which you request a letter ruling from this office on the applicability of the California sales and use taxes to certain charges for transportation costs which you wish to pass along to your customer in the following situation:

Your customer orders certain equipment from you f.o.b. factory. You in turn place an order with a midwest manufacturer for delivery to your customer f.o.b. factory. The vendor-manufacturer has like goods in a Nevada warehouse as well as the midwest factory, and ships the goods from its field warehouse, billing you for freight delivery charges not only from Nevada to the customer's specified shipping point but also from the midwest factory to Nevada. You pass along both delivery charges to your customer, each separately stated.

The question arises if either or both of the two freight charges are subject to California sales and use taxes.

If tangible personal property is transported by facilities other than the retailer's, i.e., independent contract or common carrier, etc., transportation or delivery charges are excluded from the measure of the sales and use taxes upon the satisfaction of two conditions; to wit, that the charge be for the final transportation of property to the purchaser and that the charge be separately stated to the purchaser.

Applying our factual situation to the above rules, since you state in your letter that you pass delivery charges along to your customer, separately stated, that requirement would appear to be satisfied. The other requirement found in ruling 58, which is explanatory of § 6012(g) of the California Sales and Use Tax Law, would also seem to be satisfied as to that part of the delivery charges to your customer which is attributable to the final transportation of the property to the purchaser. For your convenience, we are enclosing a copy of both the above mentioned ruling and statute.

Accordingly, only the portion of delivery charges incurred for the shipment of the goods from the Nevada point of shipment directly to the consumer in California and separately stated to the consumer would be excludible transportation charges. Delivery costs for the shipment from the midwest manufacturer's plant to his Nevada warehouse may not be deducted from the retailer's gross receipts even if the retailer separately bills his customer for them.

If you have any further questions relating to this matter, please do not hesitate to write to us again.

Very truly yours,

E. H. Stetson  
Tax Counsel

By \_\_\_\_\_  
Elliott D. McCarty

EDM:ls  
Enclosures

cc: --- --- - District Administrator