



STATE BOARD OF EQUALIZATION

(916) 327-3400

January 30, 1992

Dear _____,

I am writing in response to your November 11, 1991 request for legal advice regarding the applicability of California Sales and Use Tax to certain transactions of _____. According to your letter, a printer in Oregon is collecting California use tax on its sales to _____ of billing inserts. The inserts are shipped to _____ in California which operates as a billing vendor. The inserts are placed into customer invoices which are subsequently mailed into Oregon and Washington. You feel that this tax was incorrectly charged.

Unless specifically excluded or exempted from taxation by statute, all gross receipts from retail sales or purchases for use within this state of tangible personal property are subject to either sales or use tax. The use tax is imposed upon the storage, use or other consumption in this state of tangible personal property purchased from any retailer. (Rev. & Tax. Code § 6201.) The legal obligation to pay use tax is on the purchaser rather than the retailer. However, the retailer is required to collect and remit the use tax provided that the retailer is engaged in business in this state. (Rev. & Tax. Code § 6203.)

Since the billing inserts are being consumed or used by _____ in California, the Oregon printer is correct in adding use tax to its printing charges. The only situation where we have found tax inapplicable to this type of transaction is where a catalog preaddressed outside of California to a customer outside of California was delivered to the purchaser's agent in California solely for the purpose of forwarding to the out-of-state destination. Under these circumstances there is a continuous interstate journey with no use made in this state. (Annotation 570.1110, 11/28/66. The annotations provide guidance to previous staff decisions.) Under the facts you have given, a use is made in California because the billings are prepared here.

You also asked whether tax will be applicable to printing charges made by the California billing vendor if bills are mailed to customers out-of-state. In this case, the sale will take place in California and sales tax will be owed. The only circumstance under which the sale would be tax exempt would be if the printer mailed the inserts directly out-of-state and _____ or its agent never took possession of the inserts.

Please feel free to contact us again if you have further questions.

Sincerely,

Stella Levy
Tax Counsel