



**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA  
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)  
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January 9, 1990

REDACTED TEXT

Re: REDACTED TEXT  
Engaged in business – district use taxes

Dear REDACTED TEXT:

In your October 15, 1989 letter to the Board, which was referred by Ms. Lori Senitte of our Return Review Unit to the legal staff for response, by memorandum dated October 31, 1989, you raise several questions regarding REDACTED TEXT's obligations to collect use taxes, including district taxes, on its sales to California customers. Your letter describes REDACTED TEXT's business operations as follows:

“REDACTED TEXT develops, markets and supports software that runs on IBM mainframe computers. Our main office is located in Virginia. We have a sales office in Los Angeles, CA. Our sales are made via the telephone. We ship our product by common carrier from our headquarters in Virginia directly to our customers.

“We have customers located in various counties and taxing districts in California.”

In her memorandum, Ms. Senitte notes that REDACTED TEXT also conducts seminars in various California counties at which it displays its software. I have quoted your questions below, followed by our responses.

Question

“1. Are we responsible for collecting and remitting use tax (6%) on sales in California?”

Answer. Beginning on December 1, 1989, and ending December 31, 1990, the statewide uniform sales and use tax rate in California is 6 ¼%. On January 1, 1991, the tax rate is scheduled to revert to 6%. Persons who purchase tangible personal property from an out-of-state retailer for storage, use, or other consumption in California are obligated to pay use tax measured by the purchase price of the property. (Rev. & Tax. Code §§ 6201, 6010, 6011). If the out-of-state retailer ships the property to the customer in California, the retailer is obligated to collect the use tax if the retailer is engaged in business in California within the meaning of Revenue and Taxation Code Section 6203. Among other things, subdivisions (a) and (b) of Section 6203 define a retailer engaged in business in this state to include any retailer who maintains an office in this state, or has sales representatives or agents operating in this state for the purpose of selling, delivering, or taking orders for tangible property.

Since REDACTED TEXT has a sales office in Los Angeles, and also has representatives who demonstrate its computer software at seminars in California, our opinion is that REDACTED TEXT is a retailer engaged in business in California and is required to collect the statewide uniform 6 ¼% use tax on its out-of-state sales to all of its California customers.

Question

“2. Are we responsible for collecting and remitting district taxes on sales in various counties throughout California?”

“3. If we are responsible for collecting and remitting district taxes on sales, is it just for sales on Los Angeles County or for sales in other counties?”

Answer. If a purchaser is liable for an additional ½% district use tax imposed by various countywide districts in California, a retailer engaged in business in the district in which the purchaser is located is responsible for collecting the district use tax, if the retailer ships or delivers the property into the district, or participates in the district in making the sale. (Reg. 1827(b) and (c)). In some counties there are two districts, each of which imposes a ½% district tax. Our opinion is that REDACTED TEXT is engaged in business in Los Angeles County and also in the other California districts in which REDACTED TEXT regularly conducts seminars at which REDACTED TEXT's representatives display its software. When REDACTED TEXT is engaged in business in a district, then REDACTED TEXT is required to collect that district's use tax from its customers in that district, in addition to the statewide uniform sales and use tax, when REDACTED TEXT ships or delivers the property to its customers or participates in that district in making the sale.

I enclose the Board's Pamphlet 44, District Taxes, which includes Regulation 1827, and Pamphlet 44-A, New District Taxes, for your information. Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott  
Senior Tax Counsel

JA:jb  
Enclosures

cc: Ms. Lori Senitte, Return Review

bc: Mr. E. L. Sorensen, Jr.  
Mr. Larry Micheli