

**STATE BOARD OF EQUALIZATION**

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March 10, 1992

REDACTED TEXT

RE: REDACTED TEXT  
Reporting District Use Tax

Dear REDACTED TEXT:

I am writing this in response to your letter to January 30, 1992, to the Legal Division. You have requested advice as to whether your company (REDACTED TEXT) should be reporting district tax.

You describe REDACTED TEXT's operations as follows:

"REDACTED TEXT sells career educational materials nationwide through catalog sales. Our only location is REDACTED TEXT, Auburn CA 95603. We have four part-time employees that work at this location only and do not have outside sales people that work outside the office. We ship all orders from the REDACTED TEXT location via UPS or US mail."

You do not say how your customers find out about your service. You indicate that REDACTED TEXT was recently audited, and the auditor indicated that REDACTED TEXT need not report district tax. I thus assume that REDACTED TEXT does not have agents located elsewhere in this State promoting its services but not actually employed by it.

**OPINION****A. Sales and Use Tax Generally**

In California, except where specifically exempted by statute, Revenue and Taxation Code Section 6051 imposes an excise tax, computed as a percentage of gross receipts, upon all retailers for the privilege of selling tangible personal property at retail in this state. (Unless otherwise

stated, all statutory references are to the Revenue and Taxation Code.) In California, there is a statewide tax rate of 7.25%. This rate is made up from the California Sales and Use Tax (§§ 6051, et. seq., and 6201, et. seq.), and the Bradley-Burns Uniform Local Sales and Use Tax (§§ 7200-7212). In 1969, the Legislature enacted the Transactions and Use (hereinafter “District”) Tax Law. (Rev. & Tax. Code §§ 7251 et. seq.). Pursuant to various enabling statutes, a number of counties have established county-wide taxing districts. To support such districts, transactions and use taxes are imposed at rates of 0.25% or 0.5% of the gross receipts from the sales within the district (or districts, if there is more than one in a county) of tangible personal property sold at retail or of the sales price of property whose use, storage, or consumption within the district is otherwise subject to tax. (§§ 7261(a)(1), 7262(a), 7285, 7285.5).

1. “Out-of-District” Exemption

These are some exceptions to the District Tax. Sections 7261 and 7262 require that each district imposing a tax ordinance must include in its ordinance certain uniform provisions. One of these required provisions exempts from the transactions tax imposed on retailers, but not the use tax imposed on purchasers, sales of property to be used outside the district where the retailer ships to a point outside its district pursuant to a contract of sale between the retailer and the purchaser. (Section 7261(a)(6).) In interpreting and applying this exemption, Title 18, California Code of Regulations, Regulation 1823(a)(2) provides that the transactions tax does not apply to gross receipts from sales of tangible property:

“(B) To be used outside the district when the property sold is shipped to a point outside the district pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. If the purchaser uses the property in a district imposing transactions (sales) and use taxes, the use tax may apply.”

B. Tax Consequence to REDACTED TEXT

Auburn is the seat of Placer County which does not have a countywide taxing district. Therefore, REDACTED TEXT’s sales to its Placer County customers are not subject to district transactions taxes.

REDACTED TEXT is required to collect the use tax of any countywide taxing district(s) in which its customers reside only if it is engaged in business in any of those districts. (Reg. 1827.) You indicate that REDACTED TEXT does not have any outside salesmen and that it ships its goods by mail or UPS. We have further assumed that REDACTED TEXT does not have any independent agents representing its interests elsewhere in this state. As a result, although REDACTED TEXT’s purchasers residing in countywide taxing districts are required to pay their district’s use taxes, REDACTED TEXT is not required to collect them.

For your information, I have enclosed copies of Regulations 1823 and 1827. I hope the above discussion has answered your question. If you need anything further, please do not hesitate to write again.

Sincerely,

John L. Waid  
Tax Counsel

JLW:es  
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Enclosures: Regulation 1823 & 1827

bc: Sacramento District Administrator