



STATE BOARD OF EQUALIZATION

June 23, 1965

Gentlemen:

This is in reply to your letter of June 16, 1965.

It is our understanding that your client, a carpeting manufacturer, sells carpet to a dealer, who, in turn, furnishes and installs the carpet to builders on construction projects. Your client sells the carpet to the dealer on credit and in addition, advances the dealer sufficient cash to cover the dealer's "profit, installation costs, and sales tax."

The carpet manufacturer, in turn, takes an assignment without recourse of the dealer's contract with the builder and looks to the builder for payment on the contract.

You have inquired whether the manufacturer may obtain a refund or credit of sales tax paid by the dealer when a builder defaults on an assigned contract.

As indicated in Section 6055 and 6203.5 of the Revenue and Taxation Code, a retailer is relieved from liability for sales or use tax insofar as the measure of the tax is represented by accounts which have been found to be worthless and charged off for income tax purposes. If the retailer has previously paid the tax, he may, under rules and regulations prescribed by the Board, take as a deduction the amount found worthless and charged off for income tax purposes.

In our opinion, "retailer" in Sections 6055 and 6203.5 refers to a person in the position of the dealer. Inasmuch as he suffered no loss by reason of the builder's default, he is not entitled to take a deduction for the bad debt owed to the carpet manufacturer.

It is further our opinion that the carpet manufacturer is not entitled to a refund inasmuch as its loss was due to default on an account receivable assigned by the dealer. There is no provision in the law for refund of tax under such circumstances.

Very truly yours,

George A. Trigueros
Associate Tax Counsel

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