



STATE BOARD OF EQUALIZATION

January 31, 1958

Gentlemen:

This is in reply to your letter of January 24 in which you express the opinion that you have paid sales tax erroneously upon amounts which you allow to the Diners' Club and similar organizations as compensation for their services in billing and collecting from their members charges for meals which you charge to the organizations. You speak of this compensation as a cash discount.

Section 6012 of the Sales and Use Tax Law excludes from the definition of gross receipts the following: "Cash discounts allowed and taken on sales". As we interpret this provision, the consumer is the party who must receive the benefit of the discount in order for the retailer to exclude it from his gross receipts. What you regard as a discount in your letter appears to us to be just what you state it to be, namely, compensation to certain organizations for their services in connection with handling your accounts with customers. The customers do not receive the benefit of the so-called discount as we understand it but this is retained by the organizations and is, therefore, an expense of doing business which is not deductible from gross receipts under section 6012.

This section also provides that "gross receipts" means the total amount of the sale price without and deduction on account of "the cost of materials used, labor or service costs, interest paid, losses, or any other expense". (underscoring added) Retailers cannot deduct commissions or other selling expenses; they cannot deduct wages or amounts paid to accountants or other persons rendering assistance in the operation of their business.

Unless we are under a misapprehension as to what you propose to deduct as a cash discount, we must inform you that we cannot authorize any such deduction from your gross receipts for sales tax purposes.

Vty

EHS: ds