



**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION – MIC: 85  
450 N STREET, SACRAMENTO, CALIFORNIA  
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082  
TELEPHONE (916) 324-2655  
FAX (916) 323-3387

JOHAN KLEHS  
First District, Hayward

DEAN ANDAL  
Second District, Stockton

ERNEST J. DRONENBURG, JR.  
Third District, San Diego

BRAD SHERMAN  
Fourth District, Los Angeles

KATHLEEN CONNELL  
Controller, Sacramento

E. L. SORENSEN, JR.  
Executive Director

July 11, 1996

X-----

Re: X-----

Dear X-----:

This is in response to your letter dated April 23, 1996, regarding the application of sales tax to the sale of a certain transmission to X----- . You state:

"We are a truck repair shop. In this particular situation, our shop made a mistake by not putting oil in the transmission before the truck left the shop. This destroyed the transmission and made it inoperative. As we were responsible, the shop bought a transmission for the customer and installed it in the truck."

**DISCUSSION**

Retail sales of tangible personal property in California are subject to sales tax, measured by the gross receipts, unless the sale is specifically exempt from taxation by statute. (Rev. & Tax. Code § 6051.) The term "sale" means any transfer of title or possession of tangible personal property for consideration. (Rev. & Tax. Code § 6006(a).) A sale at retail means a sale for any purpose other than resale in the regular course of business. (Rev. & Tax. Code § 6007.) Although the retailer owes the sales tax, the retailer may collect sales tax reimbursement from the purchaser if the contract of sale so provides. (Civ. Code § 1651.1.)

We assume that X----- purchased the transmission from a California retailer. Our understanding is that X----- did not sell the transmission to its customer, but rather consumed it in repairing the damage X----- caused. Under these facts, the sale of the transmission to X----- is subject to sales tax. As discussed above, although the sales tax is imposed on the retailer, the retailer may collect sales tax reimbursement (often itemized as the "sales tax" on the invoice) from X----- if the contract of sale so provides. We note that if, X----- used a transmission from its resale inventory which was purchased extax under a

resale certificate, it must report and pay use tax with its tax return for the period in which the property was withdrawn from its resale inventory for consumption. (Reg. 1668(a)(2).)

If you have any further questions, please write again.

Sincerely,

Sophia H. Chung  
Tax Counsel

SHC:rz