STATE OF CALIFORNIA

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STATE BOARD OF EQUALIZATION
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Executive Director

June 30, 1995

Mr. J--- C. L---
S--- C--- M---, Inc.
XXXX --- Avenue
---, California XXXXX

RE: SR -- XX-XXXXXX
San Diego County District Use
Tax Credit

Dear Mr. L---:

I am responding to your Letter to the Legal Division dated May 5, 1995. You state that your company ("S---") is not engaged in business in San Diego County but voluntarily collects the district use tax in effect there. You ask how to administer the tax credit currently operating there in the case of contracts under which S--- was already performing when the tax credit went into effect and which provided for a combined tax rate of 7.75% (the actual rate in effect in the county) and also as to contracts which S--- is currently negotiating, but which will not be completed until after the tax credit is terminated.

OPINION

SB 263 (Stats. 1993, Ch. 1060) provides for an effective remedy for persons who paid or otherwise bore the economic burden of the illegal San Diego County Justice Facilities Financing Agency (SDJF) Tax and who do not qualify for a direct refund. (Rev. & Tax. Code § 7276. Unless otherwise stated, all subsequent statutory citations are to the Revenue and Taxation Code.) Although the tax rate in effect in the county continues to be 7.75%, an eligible taxpayer (which term includes a retailer collecting district use tax) may claim a credit of 0.75% against its tax liability for an effective rate of 7.00%. (§ 7276(a).) The credit may be taken until the Board notifies taxpayers that the credit is terminated. (§ 7276(d).)

During the term of the credit, then, the combined tax rate is still 7.75%; that is the for rate which S---' contracts should provide. It pays state and local sales tax and reports district use tax at the full rate but only collects and remits 7.00% to the Board. (7276(c).) When the tax credit is terminated, S--- once again reports tax and collects tax reimbursement and district use tax at the full rate. Thus, for contracts in effect at the time the tax credit became operative, S--- should have ceased to collect sales tax reimbursement and district use tax at the full rate and only collected 7.00%. Contracts currently being negotiated should provide for a full tax rate of 7.75% but also that only 7.00% will be collected from the customer until the credit is ended and the full rate after that.

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:sr

cc: -- - District Administrator