



STATE BOARD OF EQUALIZATION

LEGAL DIVISION - MIC 82
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Executive Director

May 18, 1995

Ms. S--- L. S---
Vice President
S--- B--- W--- Supply Co.
XXXXX --- Pkwy. S.W.
---, CA XXXXX

Re: SY --- XX-XXXXXX

Dear Ms. S---:

Your March 27, 1995 letter to the Union City Board office was referred to the Legal Division for a response. You ask if tax applies on governmental compliance fees imposed on your company which are passed on to your customers.

We understand that your company sells various chemicals, gases and supplies for use in welding operations. You state:

"In our business we charge a Governmental Compliance Fee. This fee is charged to recoup a portion of the fees that the company incurs complying with imposed Government Regulations (i.e., D.O.T., HAZMAT, etc.). This charge to our customers is a \$3.00 fee on their invoice, as a separate line item."

You ask whether this \$3.00 charge to your customers is subject to tax. To facilitate our response, you included a sample invoice containing your company's charge for a "government compliance fee" for our review.

Discussion

Sales tax is imposed on a retailer's gross receipts from the retail sale of tangible personal property in this state. (Rev. & Tax. Code § 6051.) Taxable gross receipts include all amounts received with respect to the sale, with no deduction for the cost of the materials, service, or expenses of the retailer passed on to the purchaser, unless there is a specific statutory exclusion. (Rev. & Tax. Code § 6012.) Thus, unless a specific exclusion exists, expenses incurred by a retailer which are part of the retail sale of tangible personal property, such as governmental

compliance fees, are included in the taxable gross receipts, as are any other costs of the retailer which are passed on to the end customer (even if those costs are separately itemized).

We understand that the "government compliance fee" your company charges is a cost of doing business which it passes on to its customers. Thus, the "government compliance fee" is part of the cost of materials sold to your company's customers at retail and must be included in your company's taxable gross receipts whether or not they are separately stated in a sales invoice provided to your company's customers.

If you have any further questions, please write again.

Sincerely,

Warren L. Astleford
Staff Counsel

WLA:plh

cc: Oakland District Administrator - CH