

**STATE BOARD OF EQUALIZATION**

(916) 445-6493

June 24, 1988

Mr. J--- W---
Box XXXX
---, CA XXXXX

S--- I--- Company – SR -- XX-XXXXXX
dba U--- I--- A--- C---
Rehandling and restocking charges

Dear Mr. W---:

In your letter to the Board's legal staff, which we received May 16, 1988, you enclosed two invoices from U--- I--- A--- C--- in [city], California. In summary, your letter and the invoices enclosed indicate that you purchased an item for \$8.92 plus \$0.54 sales tax from the A--- C---, and then returned it the following day. Rather than returning the entire amount of \$9.46 to you, the A--- C--- deducted \$.89 as a "service charge," (i.e., 10 percent of the \$8.92 purchase price) and refunded to you \$8.03 plus \$0.48 sales tax. In effect, the A--- C--- charged you sales tax of \$0.06 on an \$0.89 service charge. You wonder whether a business is authorized to charge tax on this handling charge, which is essentially labor, under the Board's Regulation 1655. You state that the Board's local office has informed you that it is permissible for a business to deduct handling charges.

Opinion

Under Regulation 1655(a), merchandise returned to the seller is not subject to sales tax if the requirements of that regulation are met. Among other things, the regulation provides that the full sales price, including the portion designated as sales tax, must be refunded to the customer. But the taxpayer's actual rehandling and restocking costs may be deducted from the purchase price, and the taxpayer is authorized to use a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise in order to compute the amount deducted from the refund for rehandling and restocking. For purposes of this opinion, we assume that the A--- C--- has correctly computed its rehandling and restocking costs as provided in Regulation 1655.

However, we agree with your contention that the A--- C--- cannot charge you sales tax on its service charge for rehandling and restocking. This is a charge for services only, and not for the sale of tangible property. The A--- C--- must refund you the entire sales tax on the returned merchandise, not just a portion. The A--- C--- should properly deduct its service charge after crediting the customer with the refund of the sales tax, not before that credit. If the Board's local office informed you the A--- C---'s procedure was correct, I believe our local office must have understood your question to be whether a seller may properly deduct a rehandling charge, and not whether that seller may collect sales tax on that charge.

I enclose a copy of Regulation 1655 for your information. Please feel free to contact me if you have any further questions or comments about this letter.

Sincerely,

John Abbott
Tax Counsel

JA:jb
Enclosure

cc: U--- I--- A--- C---
XXXXX --- ---
---, CA XXXXX