



STATE OF CALIFORNIA

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February 4, 1998

Mr. R--- D. C---  
 President  
 C--- R--- S---  
 XXXXX East XXXth Street  
 ---, California XXXXX

Re: SR -- XX-XXXXXX

Dear Mr. C---:

Thank you for your letter of December 24, 1997 supplying us with additional information as well as a copy of an invoice showing "truck charges." You have told us that C--- R--- S--- ("CRS") is a commercial refrigeration and air conditioning service and repair company. Customers call CRS when they are having problems with their equipment, and CRS repairmen go to their place of business and provide the necessary service and repairs. You also told us that the "truck charges" defray the costs of gas, insurance and upkeep on company trucks and are a one time charge to get to the job. If repair parts are required, most of the time you order them by phone and they are delivered to you, but at other times, you obtain supplies from local supply stores. We assume that the truck charges are charged on all service calls, whether or not any parts and materials are sold, and are not charged to insure that the truck is stocked with parts that might be needed for repairs. Furthermore, we assume that the problems that your customers have with their equipment do not always necessitate the sale of parts, and in fact some of your service calls may require only the labor of your employee. Finally, we assume that all parts and materials are sold for a fair retail selling price. Our conclusions in this letter are based upon those assumptions and may be different if any of the assumptions are incorrect.

### Discussion

A retailer owes sales tax, measured by gross receipts, on its retail sales of tangible personal property in California unless the sale is specifically exempt by statute. (Rev. & Tax. Code § 6051.) The taxable gross receipts include the total amount of the retailer's sale price of the property, without deduction on account of the costs of the property sold, costs and materials used, labor, or service costs, interest paid, losses or any other expense unless specifically excluded from taxation by statute. (Rev. & Tax. Code § 6012(a).) That is, charges for service

which are part of the retail sale of tangible personal property are included in gross receipts. Although Revenue and Taxation Code section 6012(c)(7) provides a specific exclusion from gross receipts for certain separately stated transportation charges (which in part requires that transportation occur after the sale of property to the purchaser if transportation is by the retailer's trucks or is sold for delivered price), the charge about which you inquire is not for transportation, although itemized as "truck charges." Thus, if the charge is regarded as part of the taxable retail sale of tangible personal property, the charge is subject to tax.

The Board has adopted Regulation 1546 to explain the application of the tax to repairers such as CRS. The regulation provides in relevant part at subdivision (b):

"(1) WHEN RETAILERS. If the retail value of the parts and materials furnished in connection with repair work is more than 10 percent of the total charge, or if the repairman makes a separate charge for such property, the repairman is the retailer and tax applies to the fair retail selling price of the property. [Footnote omitted.]

"If the retail value of the property is more than 10 percent of the total charge, the repairman must segregate on the invoices to his customers and in his records the fair retail selling price of the parts and materials from the charges for labor of repair, installation, or other services performed. [Footnote omitted.] 'Total charge' means the aggregate of the retail value of the parts and materials furnished or consumed in making the repairs, charges for installation, and charges for labor of repair or other services performed in making the repairs, including charges for in-plant or on-location handling, disassembly and reassembly. It does not include pick-up or delivery charges.

"If the retailer does not make a segregation, the retail selling price of the parts and materials will be determined by the board based on information available to it.

"(2) WHEN CONSUMERS. If the retail value of the parts and materials furnished in connection with the repair work is 10 percent or less of the total charge, as defined in (b)(1) above, and if no separate charge is made for such property, the repairman is the consumer of the property, and tax applies to the sale of the property to him."

When the repair involves service only, and CRS furnishes no parts or materials, then none of its charge is subject to sales tax. Sales or use tax applies to the sale to, or use by, CRS of any property it consumes when performing such repairs. When CRS does not furnish any parts for which it makes a separately itemized charge, then it is the consumer of any property it does furnish in connection with the repairs if the retail value of that property is ten percent (10%) or

less of the total charge. If such is the case, none of CRS's charge to the customer would be taxable, and sales or use tax would apply to the sale to, or use by, CRS of any property it consumes (including the property furnished to the customer). When CRS is a consumer of property that it had purchased extax under a resale certificate (e.g., the small fittings, wiring, and other items that CRS may furnish without a separate itemization), CRS must report use tax measured by the purchase price of such property on line 2 of its Sales and Use Tax Return.

When CRS separately itemizes charges for property furnished to the customer, or when it bills in lump sum and the retail value of the property furnished exceeds ten percent (10%) of the total charge, CRS is the retailer of that property. Sales tax applies to CRS's gross receipts from the sale of such property, and the remaining question is whether part or all of the "truck charges" are part of those taxable gross receipts.

Based upon your representations and our assumptions, we conclude that CRS's "truck charges" are not includible in the taxable gross receipts from your sale of repair parts as the truck charge is a charge for transporting a service person to a service call so that services may be performed, even though parts and materials may be sold as part of a repair required by that service call. Of course, if our assumptions are in error, our opinion would be different. For example, if you charge less than a fair retail selling price for parts and materials you sell, the truck charge would be includible in the gross receipts from those sales.

If you have any questions, please write again.

Very truly yours,

Janice L. Thurston  
Tax Counsel

JLT/cmm

cc: --- District Administrator (--)