

**STATE BOARD OF EQUALIZATION**

1020 N STREET, SACRAMENTO, CALIFORNIA
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March 16, 1988

Ms. K--- R. W---
Executive Officer
C--- A--- C---
XXXX --- Street, Suite --XX
---, CA XXXXX

Dear Ms. W---:

This is in response to your letter of March 11, 1988. We understand that your agency licenses and regulates auctioneers and auction companies in California. As a part of that process, you require that applicants show evidence of a seller's permit issued by this agency.

You have inquired as to the manner in which the sales tax applies to buyer's premiums at auction. The normal process at auction is as follows: A seller "consigns" goods for sale at auction, after agreeing to pay the auctioneer a certain percentage of the sale price. The auctioneer also announces to the buying audience that a 10% buyer's premium will be added to the purchase (bid) price, which will be retained by the auctioneer. If a person is the successful bidder of an item for a bid of \$100, the buyer will pay to the auctioneer \$110. The question you raise is whether tax applies to the \$100 amount or whether tax applies to the \$100 amount inclusive of the buyer's premium.

Under Revenue and Taxation Code Sections 6006 and 6015(b), the auctioneer is considered to be a retailer making a sale of tangible personal property sold at the auction, even though the property is owned by the person consigning the goods for sale at auction. Revenue and Taxation Code Section 6012 defines "gross receipts," which is the measure of the sale tax. "Gross receipts" mean the total amount of the sale price. The total amount of the sale price includes all services that are part of the sale and all receipts, cash and credits. In other words, gross receipts is the amount which the buyer must pay to obtain the goods. In the auction context, where a buyer's premium is imposed, the premium constitutes gross receipts to the auctioneer and is subject to tax. If the tax rate is 6%, the tax on a \$100 sale is \$6.60.

You indicate that there may have been some uncertainty amongst our agents as to this application of the tax. We are taking steps to insure that this rule is fully understood by our employees, and we appreciate your assistance in passing this information along to your licensees.

Very truly yours,

Gary J. Jugum
Assistant Chief Counsel

GJJ:sr