

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION – MIC: 85

450 N STREET, SACRAMENTO, CALIFORNIA

PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082

TELEPHONE (916) 324-2655

FAX (916) 323-3387

JOHAN KLEHS
First District, HaywardDEAN ANDAL
Second District, StocktonERNEST J. DRONENBURG, JR.
Third District, San DiegoBRAD SHERMAN
Fourth District, Los AngelesKATHLEEN CONNELL
Controller, SacramentoE. L. SORENSEN, JR.
Executive Director

October 16, 1996

[A]

Re: [X]

Dear [A]:

This is in response to your August 20, 1996 letter to Keith Christensen regarding the application of sales tax to sales by [X]'s thrift store. You state:

“[X] is a Religious non-profit corporation established to help men and women who have life-controlling problems. We operate two residential homes as well as oversee numerous community services.

“It is our desire to open a Thrift Store in [Z] County....

“We intend to resell only items donated to us.

“We currently have welfare exemptions granted to our locations.”

As you may know, retail sales of tangible personal property in California are subject to sales tax, measured by the gross receipts, unless the sale is specifically exempt from taxation by statute. (Rev. & Tax. Code § 6051.) A sale at retail means a sale for any purpose other than resale in the regular course of business. (Rev. & Tax. Code § 6007.) The term “sale” means any transfer of title or possession of tangible personal property for a consideration. (Rev. & Tax. Code § 6006(a).) Although the retailer owes the sales tax, the retailer may collect sales tax reimbursement from the purchaser if the contract of sale so provides. (Civ. Code § 1656.1.)

California does not provide a blanket exemption from tax for the sale of personal property by a nonprofit organization. (See BTLG Annots. 390.0020 (8/24/64), 390.0040 (2/20/63).) This means that a retail sale of tangible personal property by a nonprofit organization is subject to tax, unless the sale is specifically exempt from taxation by statute. Revenue and Taxation Code section 6375 provides an exemption for sales by charitable organizations when four conditions are satisfied: (1) the selling organization must qualify for the welfare exemption from property taxation provided by Revenue and Taxation Code section 214; (2) the organization

must be engaged in the relief of poverty and distress; (3) the organization's sales or donations must be made principally to assist purchasers who are in distressed financial condition; and (4) the property sold or donated must have been made, prepared, assembled, or manufactured by the organization. (Rev. & Tax. Code § 6375; Reg. 1570(a).)

The first condition is satisfied by obtaining a welfare exemption from the Board of Equalization. The welfare exemption is available only to property owned and operated by a charitable organization and which is used or operated exclusively for one of the purposes enumerated in the statute. In order to receive the sales tax exemption, the welfare exemption must be obtained for that location. (Reg. 1570(a)(4)(B).) The second and third conditions are satisfied if the principal purpose of the charitable organization is to relieve poverty and to aid purchasers and donees by selling or donating property at reduced prices so as to give real assistance to the purchasers and donees. The fourth condition is satisfied if the property is picked up at various locations and assembled at one or more places for purposes of sale, even though nothing further need be done to put the property in a salable condition. Property is prepared when it is made ready for sale by such processes as cleaning, repairing, or reconditioning. (See Reg. 1570(a)(4)(C) and (D).) In addition, even if all of a charitable organization's sales qualify as exempt under Revenue and Taxation Code section 6375, the organization must hold a seller's permit. (See Reg. 1570(d).)

Based on the information provided in your letter, [X] satisfies the first condition because it has obtained welfare exemptions for its locations. Our understanding is that [X] is engaged in the relief of poverty and distress. If so, it satisfies the second condition of the exemption. The [X] brochure states that it is a "Christian ministry to ladies ... who have a life-controlling problem...which may include drug and alcohol abuse, prostitution, gang affiliation, those bruised and broken hearted from rape, child abuse or anything else that causes an individual not to be able to function normally as a Christian in society." Given that the store will be a thrift store, we assume that the [X] will make sales at the store principally to assist purchasers who are in distressed financial condition. If so, it satisfies the third condition. Since the donated items will be picked up at various locations and assembled by [X] for purposes of sale at the thrift store, the fourth condition is satisfied.

Based on our understanding of the applicable facts, the sales by [X] thrift store are exempt from sales tax under Revenue & Taxation Code section 6375. Please write again if you have further questions.

Very truly yours,

Charlotte Chyr
Tax Counsel

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