



STATE BOARD OF EQUALIZATION

916-445-3237

August 26, 1980

[X]

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[A]:

This is in response to your letter of June 24, 1980. Your inquiry concerns the correct application of tax to the sales of donated used clothing and articles at your organization's thrift shop, the [X].

We understand that the [X] is a rented facility where donated items are prepared (cleaned, mended, etc.) and sold. The majority of your customers are needy persons who are able to purchase goods at a fraction of their value. The store is staffed by volunteers who are members of the [X].

The [X] is a nonprofit organization. It acts as a hospital auxiliary for the various hospitals in your vicinity. Proceeds from fundraising events (including [X]'s sales) are donated to local hospitals, provide medical scholarships, and operate the [X]. The organization has no paid staff but is composed entirely of volunteers.

Sales and Use Tax Regulation 1570 provides that:

“Sales by charitable organizations are exempt from the sales tax, and the purchaser is exempt from the use tax provided all of the following conditions are met:

“(1) The organization must be formed and operated for charitable purposes, and must qualify for the ‘welfare exemption’ from property taxation provided by Section 214 of the Revenue and Taxation Code.

“(2) The organization must be engaged in the relief of poverty and distress.

“(3) The organization's sales must be made principally as a matter of assistance to purchasers in distressed financial condition.

“(4) The property sold must have been made, prepared, assembled or manufactured by the organization.”

You will note that the first requirement of Regulation 1570 is that an organization must qualify for the "welfare exemption" from property taxation provided by Section 214 of the Revenue and Taxation Code.

In discussing this matter with our Property Tax staff, we have determined that the [X] would not be exempt from the payment of property taxes (or personal property taxes on equipment in the case of an organization which rents property). A thrift store qualifies under Section 214 only if it shows that it is a rehabilitating persons in an on-going rehabilitation program. This rule was established by the Supreme Court of California in Cedars of Lebanon Hospital v. County of Los Angeles 35 Cal. 2d 729 when the court decided that such stores are not exempt when they are used for revenue generating operations. As a result of the Cedars of Lebanon case, thrift store operations can only qualify for the exemption from property taxation when there is rehabilitation taking place on the premises.

Rehabilitation in this instance means an on-going program of taking disadvantaged persons and employing them in the whole process of the operation with a view toward a goal of establishing that person in society at large. From the information supplied in your letter it appears that the function of the [X] is to generate revenue for disconnected charitable purposes rather than for rehabilitation.

Because your organization does not qualify for the "welfare exemption" from property tax it fails to meet the requirements of Sales and Use Tax Regulation 1570 (a). As such, tax will continue to apply to your sales of used clothing at the [X].

We are enclosing a copy of Regulation 1570 for your future reference. If you have further questions concerning this matter, please write this office again.

Very truly yours,

Mary C. Armstrong
Staff Counsel

MCA:ba