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May 2, 1996

Ms. W--- Q---
 W--- I--- Sales
 P. O. Box XXXX
 --- ---, CA XXXXX

**Re: W--- I--- Sales
 SR -- XX-XXXXXX**

Dear Ms. Q---:

This is in response to your letter dated March 11, 1996 regarding the application of tax to your sales to California customers. You state:

“I currently hold California resale permit number SR --- XX-XXXXXX and operate my business, W--- I---Sales, from --- ---, CA.

“I have sold my home and plan to take my business ‘on the road’ working from a motorhome. I plan to spend at least a month at a time in a number of the western states. I am planning to keep my post office box and bank account here in --- --- until I finally purchase another home somewhere in the Northwest. I plan to purchase a home in the next 12 months.

“My question is this: What do I do about collecting California sales taxes? I do have and plan to keep my current customers in California. At present, I do not have any customers in --- County (where I now live and where I plan to keep my P.O. Box and bank account).”

DISCUSSION

Retail sales of tangible personal property in California are subject to sales tax, measured by gross receipts, unless specifically exempt from taxation by statute. (Rev. & Tax. Code § 6051.) A retailer may collect reimbursement from its customers for its sales tax liability if its contract of sale so provides. (Civ. Code § 1656.1.) When sales tax does not apply, such as when sales take place outside of California, the use tax, measured by the sales price of the property sold, applies to the use of property purchased from a retailer for storage, use, or other consumption in California, unless the use is specifically exempt from taxation by statute.

(Rev. & Tax. Code §§ 6201, 6401, Reg. 1620.) Although the purchaser is liable for the use tax, a retailer engaged in business in this state is required to collect the use tax from the purchaser and to pay that tax to this state. (See Rev. & Tax. Code §§ 6202, 6203, 6204.)

It appears from your letter that after you sell your home and move out of California, you plan to sell tangible personal property to California customers from inside California when you re-enter this state in your motorhome. It is not clear whether you will maintain a business location in California after you sell your home and move out of state. As long as you maintain a business location in this state, when you make sales inside of California while operating out of or having a connection with that place of business, you owe sales tax on those sales. (Reg. 1620(a)(2)(A).)

If you do not maintain a California branch, office, outlet, or other place of business for Western Industrial Sales, the use tax, rather than the sales tax, will apply. (Reg. 1620(b)(1).) Our understanding is that even after you sell your home and move out-of-state, you will continue to enter California for the purpose of selling, taking orders, or otherwise generating business for your company. This means that even if your company does not have a California business location, when you sell tangible personal property to California purchasers for use in this state, you must collect the use tax from those purchasers and pay that tax to this state. (Rev. & Tax. Code § 6203(b).)

If you have further questions, please feel free to write again.

Sincerely,

Kelly W. Ching
Staff Counsel

KWC:cl

cc: Sacramento District Administrator
Out-of-State District Administrator
Mr. John Gibbs, Out-of-State District Office