

**STATE BOARD OF EQUALIZATION**

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January 10, 1989

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Dear --:

Your letter of November 28, 1988 to former Executive Secretary Douglas D. Bell has been referred to the undersigned for reply.

On behalf of --- (---), you requested that we confirm that the 12% Federal Retailer's Excise Tax on Heavy Trucks (26 U.S.C. § 4051 et seq.) is excludable from the measure of the California sales and use tax.

California sales tax is measured by "gross receipts" while the use tax is measured by "sales price" (Revenue and Taxation Code §§ 6011, 6012, 6051, 6201). "Gross receipts" and "sales price" do not include "... the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or consumer." (Revenue and Taxation Code §§ 6012(c)(4), 6011(c)(4)).

We have examined the Federal Retailer's Excise Tax in question and have determined that, since it is imposed with respect to retail sales, it is excludable from the measure of the California sales and use tax (see Business Taxes Law Guide Annotation 295.1245, copy enclosed.)

Sincerely,

E. L. Sorensen, Jr.  
Senior Tax Counsel

ELS:jb  
Enclosure