



STATE BOARD OF EQUALIZATION

916-445-6493

June 25, 1981

Attention:

Gentleman:

This is in response to your letter of April 23, 1981 addressed to James J. Delaney, Esquire, Chief Counsel.

We understand that the --- a subsidiary of your corporation, in compliance with an order by the California Public Utilities Commission to establish programs that encourage the conservation of natural gas, programs that encourage the conservation of natural gas, proposes to establish a Home Improvement Conservation Program (HIC), submitted as Exhibit A. the primary purpose of the program is to encourage customers of --- to purchase gas saving items (Energy Conservation Measures), such as flow-restricting showerheads, other waterflow controls, furnace filters, and water heater blankets, which can be installed easily by the purchaser and are purchased from participating retail do-it-yourself merchandisers.

You seek an opinion as to the application of sales tax to the Coupon Incentive Plan portion of the HIC. Under this plan --- will distribute coupons to its customers which can be used to reduce the purchase price of certain energy saving measures at participating retail stores. These retailers will reduce the retail cost of the item by the redemption value of the coupon. They will then be reimbursed by --- for the face value of the coupon plus a small handling fee. --- itself may sell certain of the items to purchasers on the same basis as sales made by other retailers.

Section 6051 of the Revenue and Taxation Code imposes the sales tax upon retailers measured by gross receipts. Section 6012 (a) defines gross receipts to mean the total amount of the sale price of the retail sale valued in money, whether received in money or otherwise. Subsection (1) states that gross receipts do not include cash discounts allowed and taken on sales.

Based upon those sections, the application of tax to sales of Energy Conservation Measure (ECM) sold by --- and by participating retail stores is as follows:

1. --- as retailer:

The retailer does not receive its full selling price on the sale. The price is discounted to the extent of the value of the coupon issued by the retailer to its customer. Taxable gross receipts of --- is therefore the retail price reduced by the value of the discount allowed and taken on the sale.

2. Sale by participating retail store:

The retailer receives his full selling price of the ECM from the customer—cash plus a coupon redeemable at full value from ---. The gross receipts of the retailer included the cash received as well as the coupon value

If we may be of further assistance, please feel free to write the undersigned.

Very truly yours,

Margaret H. Howard
Tax Counsel

MHH:ba

bc: Mr. J. J. Delaney
Mr. D. J. Hennessy
- District Administrator